

United States 4
Circuit Court of Appeals
For the Ninth Circuit.

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

vs.

ELMER D. BRYSON,
Respondent.
and

ELMER D. BRYSON,
Petitioner,
vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Transcript of the Record

Upon Petitions to Review an Order of the United States
Board of Tax Appeals.

FILED

AUG -9 1934

PAUL P. O'BRIEN,

United States
Circuit Court of Appeals
For the Ninth Circuit.

GUY T. HELVERING, as Commissioner of
Internal Revenue,
Petitioner,
vs.

ELMER D. BRYSON,
Respondent.

Transcript of the Record

Upon Petition to Review an Order of the
United States Board of Tax Appeals.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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Docket No. 22255

APPEARANCES.

For Taxpayer:

JOHN F. WATSON, Esq.,
HERBERT C. BRYSON, Esq.,

For Comm'r.:

ELDON McFARLAND, Esq.

DOCKET ENTRIES.

1926

Dec. 31—Petition received and filed. Taxpayer notified.

1927

Jan. 3—Copy of petition served on General Counsel.

Mar. 4—Answer filed by General Counsel.

“ 22—Motion for judgment filed by taxpayer.

Apr. 5—Copy of answer served on taxpayer. Assigned General Calendar.

May 7—Request for field hearing in Washington state to be heard with docket 22184 at the same time and place. Granted 5/7/27.

1930

Apr. 16—Hearing set in Spokane, Washington, week beginning June 2, 1930.

May 8—Application for subpoena duces tecum filed by taxpayer.

“ 9—Application for subpoena duces tecum filed by taxpayer.

“ 16—Demand for documents filed by taxpayer.

1930

- May 13—Order that a subpoena issue for Commissioner of Internal Revenue duces tecum and that the application for subpoena insofar as it relates to the Collector of Internal Revenue, Tacoma, Washington and all officers having control of original documents, etc. be denied, entered.
- “ 13—Subpoena issued.
- “ 20—Order that respondent have at hearing certain specified documents entered.
- “ 24—Application for subpoena of Elmer D. Bryson filed by General Counsel.
- “ 24—Subpoena issued (duces tecum)
E. D. Bryson.
- “ 24—Application for subpoena of L. L. Robison.
- “ 24—Subpoena issued L. L. Robison.
- Jun. 2—Hearing held before Eugene Black, Div. 15 on merits. Consolidated with docket 22184. Briefs due in 90 days. Amendment to Answer allowed.
- Jul. 8—Transcript of hearing of June 2, 1930 filed.
- Aug. 19—Brief filed by taxpayer.
- “ 22—Motion for extension to 10/15/30 to file brief filed by General Counsel. See 22184.
- “ 25—Motion granted. [1*]
- Oct. 14—Motion for extension to 12/14/30 to file brief filed by General Counsel. 10/16/30 granted.
- Dec. 13—Brief filed by General Counsel.

*Page numbering appearing at the foot of page of original certified Transcript of Record.

1931

Feb. 26—Findings of fact and opinion rendered, Mr. Black, Div. 15. Decision will be entered under Rule 50.

Mar. 14—Petition for review by entire Board filed by taxpayer.

“ 14—Application for permission to make trial amendment filed by taxpayer.

“ 14—Application to reopen the case for additional evidence filed by taxpayer.

“ 14—Objection and exceptions filed by taxpayer.

“ 28—Memorandum opinion and order, Mr. Black, restored to calendar of 4/29/31 entered.

“ 28—Order denying motion for Board review entered.

Apr. 27—Brief filed by taxpayer.

“ 29—Stipulation as to return for Bryson—Robison Corporation for the years 1917 and 1918 filed.

“ 29—Hearing had before Mr. Black on motion for further hearing. Stipulation filed.

“ 30—Order allowing briefs 30 days from Apr. 29, 1931 to file briefs entered.

1932

Jul. 20—Memorandum opinion rendered Mr. Black, Div. 15. Decision will be entered that petitioner is not liable for any deficiency of Bryson Robison Corporation for years 1917 and 1918 but is liable for the year 1919 which will be redetermined in accordance with former opinion.

1932

Jul. 30—Motion to review findings promulgated July 20, 1932 filed by taxpayer.

“ 30—Objections and exceptions filed by taxpayer.

Aug. 4—Order denying motion for review of Memorandum Opinion entered.

“ 22—Motion for reconsideration and review by Board with brief in support thereof filed by General Counsel.

Sep. 22—Order denying motion to reconsider entered.

Oct. 31—Notice of settlement filed by General Counsel.

Nov. 2—Hearing set for Nov. 30, 1932 on settlement.

“ 22—Motion and affidavit for 30 days extension filed by taxpayer.

“ 25—Order of continuance to Jan. 4, 1932 on settlement entered.

Dec. 24—Objections to notice of settlement filed by taxpayer.

1933

Jan. 4—Hearing had before Mr. Black, Div. 15 on settlement under Rule 50.

“ 26—Decision entered, Mr. Black, Div. 15.

Apr. 19—Petition for review by U. S. Circuit Court of Appeals (9) with assignments of error filed by General Counsel.

May 4—Petition for review by U. S. Circuit Court of Appeals (9) with assignments of error filed by taxpayer.

“ 4—Proof of service filed by General Counsel.

1933

May 4—Proof of service filed by taxpayer.

“ 12—Affidavit of service filed by taxpayer.

“ 13—Motion to vacate final order filed by taxpayer. [2]

May 22—Order denying motion to vacate entered.

Jun. 13—Motion for extension to 7/15/33 to complete record filed by General Counsel.

“ 13—Order enlarging time to July 15, 1933 for preparation and delivery of record entered.

Jun. 20—Statement of evidence lodged. (General Counsel)

“ 28—Praecipe filed by taxpayer.

“ 28—Cross appellant and respondent's additional statement of evidence lodged.

“ 28—Notice of lodgment of statement and of hearing July 20, 1933 filed.

“ 30—Praecipe with proof of service thereon filed by General Counsel.

“ 30—Notice of lodgment of statement and of hearing July 20, 1933 to approve statement filed.

“ 29—Notice changing hearing date from July 20, 1933 to July 19, 1933.

Jul. 10—Petitioner's objection to cross appellant and respondent's additional statement of evidence filed.

“ 10—Motion for extension to Aug. 15, 1933 to complete record filed by General Counsel.

“ 10—Objection to cross appellant and respondent's praecipe for record filed by General Counsel.

1933

Jul. 10—Order enlarging time to August 15, 1933 for preparation of evidence and delivery of record entered.

“ 19—Hearing had before Mr. Black, Div. 15 on approval of statement of evidence. Agreed statement to be filed.

“ 25—Order denying cross appellant and respondent on review's request for additional statement of evidence entered.

“ 25—Order determining praecipe for record—further ordered that Board's order of May 22, 1933 be included as part of record entered.

“ 25—Statement of evidence approved and ordered filed.

Aug. 12—Motion for extension to 10/1/33 to complete record filed by General Counsel.

“ 12—Order enlarging time to Oct. 2, 1933 for preparation of evidence and delivery of record entered.

Oct. 2—Motion for extension to Nov. 1, 1933 to complete record filed by General Counsel.

“ 2—Order enlarging time to Nov. 1, 1933 for preparation of evidence and delivery of record entered.

“ 30—Motion for extension to Jan. 1, 1934 to prepare and complete record filed by General Counsel.

“ 30—Order enlarging time to Jan. 1, 1934 for preparation of evidence and delivery of record entered.

1933

Dec. 29—Motion for extension to 3/1/34 to complete record filed by General Counsel.

Dec. 29—Order enlarging time to 3/1/34 for preparation of evidence and delivery of record entered.

1934

Feb. 17—Motion for extension to May 1, 1934 to complete and transmit record filed by General Counsel.

“ 17—Order enlarging time to May 1, 1934 for preparation of evidence and delivery of record entered.

May 1—Order enlarging time to June 15, 1934 for transmission and delivery of record entered. [3 & 4]

United States Board of Tax Appeals

Docket No. 22255

ELMER D. BRYSON,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

PETITION.

The above named petitioner hereby petitions for a redetermination of the deficiency set forth by the Commissioner of Internal Revenue in his notice of deficiency IT:E:RR-280-60D HTL dated November 3, 1926, and as a basis of his proceeding alleges as follows:

1. The petitioner is Mr. Elmer D. Bryson, an individual, with principal residence at 605 Boyer Avenue, Walla Walla, Washington.

2. The notice of deficiency (a copy of which is attached and marked Exhibit A) was mailed to the petitioner on the third day of November, 1926.

3. The taxes in controversy are income and profits taxes levied against the Bryson-Robison Corporation, Walla Walla, Washington, in the total sum of \$11,578.85 assessed against such company for the years 1917, 1918 and 1919. The proposed assessment against which this petition for a re-determination is made is in the sum of \$5,789.43, being one half of the assessment, and such proposed assessment is based upon the liability of the petitioner under Section 280 of the Revenue Act of 1926, as a transferee of property of the Bryson-Robison Corporation, which ceased to do business on about June 4, 1919.

4. The determination of tax set forth in the said notice of deficiency is based upon the following errors:

First: That all of said proposed assessment against the petitioner is barred by operation of the Statute of Limitations.

Second: That the Commissioner of Internal Revenue in arriving at the amount of the invested capital of the Bryson-Robison Corporation erroneously reduced the said invested capital by the sum of \$45,000.00.

Third: That the Commissioner in arriving at the net income of the Bryson-Robison Corporation in

error disallowed the salaries of the corporation officers for the years 1917 and 1919. That said lawful and proper deduction for salaries during 1917 was the sum of \$10,000.00, (the same as allowed in 1918), and for 1919 was at the rate of \$10,000.00 per year up until June 4, 1919 when the company ceased to operate as a going concern. Disallowing said salaries was in error. [5]

Fourth: That the several income tax returns for the years 1917, 1918 and 1919 as made and filed by Bryson-Robison Corporation were true and correct as to amounts and items of all receipts, disbursements and legal deductions allowable for each of said years, and the Commissioner erred in disregarding and setting aside said income tax returns and the tax as therein computed and accepting in lieu thereof some book "set up" unauthorized by said corporation, without the knowledge of said corporation or any of its duly authorized officers the correctness of which said set up your petitioner believes to be unreliable.

Fifth: The Commissioner erred in determining petitioner to be a transferee of one half the assets of the corporation of Bryson-Robison Corporation on dissolution thereof as petitioner purchased of and from Lester L. Robison and said corporation certain assets, being all of the assets, of said corporation as an independent, outright purchase.

5. The facts upon which the petitioner relies as a basis of this proceeding are as follows:

(a) That no assessment of said taxes for said years 1917, 1918 and 1919 or any of them has been made against said Bryson-Robison Corporation, or the petitioner within the time limited by the Revenue Laws.

(b) That petitioner has never signed a waiver of the statute of limitations as an individual, and that no authorized or valid waiver has ever been submitted by said Bryson-Robison Corporation.

(c) That the Bryson-Robison Corporation was organized under the laws of the State of Washington in 1916 and commenced business on October 16, 1916. That as stated in the Revenue Agents Report made under date of Oct. 22, 1923, this corporation purchased lands at a cost of \$45,000.00. For good and sufficient reasons not material to this case the corporation on Mar. 1, 1917, deeded this land to Lester L. Robison and Elmer D. Bryson, to be held by them in trust for the corporation; two days later, on March 3d, 1917, Lester L. Robison and Elmer D. Bryson deeded said land back to the corporation. The deeds from Lester L. Robison and Elmer D. Bryson were not recorded but were placed in escrow in the law office of Goss & Crowe, Walla Walla, Washington. No money changed hands on either transaction. At all times before and after the said transaction the land was treated and considered as belonging to the said corporation, the company paying for the improvements thereon and paying the taxes thereon; having no lease and paying no rent for the use of the land. That the company at all

times had actually invested in said lands as shown by the Revenue Agents report the sum of \$45,000.00. That in the event the deed did convey the property from the assets of the company, then accounts receivable of the value of \$45,000.00 replaced the land in the assets of the company and the invested capital would not be reduced by the transaction. The land was not given away and there was no dividend declared of the land. Therefore, if it is held that the company lost title to the land, it must be held that they gained title to perfectly good accounts receivable in the sum of \$45,000.00 from Lester L. Robison and Elmer D. Bryson. The invested capital should not therefore be reduced in any amount by the transaction.

(d) That shortly after the corporation commenced business in 1916 it was agreed that the two officers of the company, Lester L. Robison and [6] Elmer D. Bryson, should receive annually as salaries the sum of \$5,000 each. These said officers managed the corporation entirely and the salaries were reasonable and in accord with the services rendered. Both officers were experienced farmers and sheep men and as shown by the profits were competent to draw \$5000 salaries. No set of books was kept by the company; the cancelled checks and balance sheets being the source of information in the audit. At the end of 1917 the company had not made sales so that the salaries could be paid and since there were no books, no credits to the officer managers could be made for salaries. During 1918, following sales of

products, distribution of money was made to the said officers. Of the amounts distributed the Revenue Agent and the Commissioner has allowed to be treated as salaries the sum of \$5000 to each of the named officers. But the \$5000 due each of them as salaries for 1917 has been treated as dividends distributed in 1918. This action is in error and most unjust to the taxpayer. When the company sold out on June 4, 1919 there was due the named officers salaries at the rate of \$5,000 per year up to that date and a deduction for same should be allowed in arriving at the net income of the company. Both officers actually received the money for the salaries for all years, but because of their ignorance of the income tax law and of methods of accounting the money was paid to them in a manner which makes it complicated to designate as a salary payment. The salary deduction was authorized by the directors who were the officers and stockholders, the salaries were actually paid and are an allowable deduction for income and excess profits tax purposes.

(e) The Bryson-Robison Corporation was a sheep farming company, whose officers were practical and experienced stockmen without knowledge or experience in accounting or of income tax laws, rules and regulations. The only business records kept by the corporation were adequate for their purposes of the business, but were only their bank records of deposit for gross sales and their bank checks record of all disbursements for corporate purposes. The corporation at no time, nor did any duly authorized

officer of the corporation, either compile or "set up", nor authorize compilation and setting up of a book record in accounting form of its transactions as a corporation, and petitioner has no accounting knowledge sufficient to form a belief as to the technical accounting accuracy of the "set up" apparently used by the auditor for the Commissioner. Petitioner alleges that the original income tax returns, with farm schedules, were correct in amount and should have been accepted.

(f) The petitioner purchased assets of the corporation from Lester L. Robison and the corporation, not as a stockholder, but as an independent purchaser paying his own money therefor.

WHEREFORE, the petitioner prays that this Board may hear the proceeding and find: that petitioner is not liable for any proposed tax assessment because of same being barred by the running of the Statute of Limitations as provided in the Revenue Laws; that the Commissioner was in error in reducing the invested capital of the Bryson-Robison Corporation in the amount of \$45,000 during the year 1917; that the Commissioner was in error in disallowing to the Bryson-Robison Corporation a salary deduction in 1917 in the amount of \$10,000; and that the Commission was in error in disallowing to the corporation a salary reduction [7] in 1919 in the amount of at least \$4,200.

HERBERT C. BRYSON,
Counsel for Petitioner
312-13 Drumheller Bldg.,
Walla Walla, Washington.

State of Washington,
County of Walla Walla—ss.

Elmer D. Bryson, being duly sworn, says that he is the petitioner above named, that he has read the foregoing petition and is familiar with the statements contained therein, and that the facts stated are true.

ELMER D. BRYSON

Subscribed and sworn to before me this 28th day of December, 1926.

[Seal]

HERBERT C. BRYSON,
Notary Public for Washington, residing
at Walla Walla. [8]

TREASURY DEPARTMENT

Office of

Commissioner of Internal Revenue

Washington,

November 3, 1926.

IT:E:RR-280-60D

HTL

Mr. Elmer D. Bryson,
605 Boyer Avenue,
Walla Walla, Washington.

Sir:

As provided in Section 280 of the Revenue Act of 1926, there is proposed for assessment against you the amount of \$5,789.43, constituting your liability as a transferee of the property of the Bryson-Robi-

son Corporation, Walla Walla, Washington, for unpaid income and profits taxes in the amount of \$11,578.85 assessed against such company for the years 1917, 1918 and 1919, as per the attached statement, plus any accrued penalty and interest.

In accordance with the provisions of Section 274 of the Revenue Act of 1926, you are allowed 60 days from the date of mailing of this letter within which to file a petition for the redetermination of this deficiency. Any such petition must be addressed to the United States Board of Tax Appeals, Earle Building, Washington, D. C., and *must mailed* in time to reach the Board within the 60-day period, not counting Sunday as the sixtieth day.

Where a taxpayer has been given an opportunity to file a petition with the United States Board of Tax Appeals and has not done so within the 60 days prescribed and an assessment has been made, or where a taxpayer has filed a petition and an assessment in accordance with the final decision on such petition has been made, the unpaid amount of the assessment must be paid upon notice and demand from the Collector of Internal Revenue. No claim for abatement can be entertained.

If you acquiesce in this determination and do not desire to file a petition with the United States Board of Tax Appeals, you are requested to execute a waiver of your right to file a petition with the United States Board of Tax Appeals on the inclosed Form A, and forward it to the Commissioner of Internal Revenue, Washington, D. C., for the atten-

tion of IT:C:P-7. In the event that you acquiesce in a part of the determination, the waiver should be executed with respect to the items to which you agree.

Respectfully,
D. H. BLAIR,
Commissioner.

By C. R. NASH,
Assistant to the Commissioner.

Inclosures:

Statement
Form A [9]

Mr. Elmer D. Bryson, Transferee

STATEMENT

IT:E:RE-280-60D

HTL

In re: Bryson-Robison Corporation,
Walla Walla, Washington.

1917

Additional tax assessed on March 1924 List,

Page O, Line 4

\$5,896.86

Abatement allowed, September 18, 1925,

Schedule 15439

3,033.44

Deficiency in tax

\$2,863.42

1918

Net income as by a supplemental examination of
your books of account and records \$20,636.45

As the tax computed under Section 301 of the Revenue Act of 1918 is in excess of the tax computed under Section 302 of that Act, it is computed under the latter section, as follows:

Net income, as above \$20,636.45

Less:

Income not in excess of the limitation
of the 30% tax 20,000.00

Balance taxable at 80% \$ 636.45

Net income not in excess of the
limitation of the 30% tax \$20,000.00

Less:

Exemption 3,000.00

Balance taxable at 30% \$17,000.00

Tax at 30% 5,100.00

Tax at 80% 509.16

Total profits tax \$5,609.16

Net income \$20,636.45

Less:

Profits tax \$5,609.16

Exemption 2,000.00 7,609.16

Balance taxable at 12% \$13,027.29

Tax at 12% 1,563.27

Total tax assessable \$7,172.43

[10]

Brought forward \$7,172.43

Original tax assessed on Account No. 438626,
dated June, 1919 1,430.54

Additional tax due \$5,741.89

You are informed that your contention that the value of land, title to which is vested in the indi-

vidual stockholders, should be included in your invested capital has not been conceded by this office. There is no provision in the income tax laws which authorizes a taxpayer to include in invested capital property which it does not own.

Your contention that, as a matter of equity, you should be allowed as a deduction for officers' salaries \$5,000.00 for 1917 has not been allowed for the reason that the amount was not paid or accrued during 1917, and, therefore, is specifically disallowable under T. B. M. 86.

1919

Net income, Revenue Agent's report	\$13,271.57
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Inasmuch as the tax when computed under Section 301 is in excess of that computed under the provisions of Section 302, the tax is computed under the latter section as follows:

Net income	\$13,271.57
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Less:

Exemption	3,000.00
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Balance taxable at 20%	\$ 9,271.57
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Total profits tax, Section 302	\$2,054.31
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Net income	\$13,271.57
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Less:

Profits tax	\$2,054.31
-------------	------------

Exemption	2,000.00	4,054.31
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Taxable at 10%	\$ 9,217.26	921.73
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Total tax assessable	\$2,976.04
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Tax previously assessed:

Account No. 402204	2.50
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Additional tax due	\$2,973.54
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[Endorsed]: United States Board of Tax Appeals.
Filed Dec. 31, 1926. [11]

[Title of Court and Cause.]

ANSWER.

The Commissioner of Internal Revenue by his attorney, A. W. Gregg, General Counsel, Bureau of Internal Revenue, for answer to the petition of the above named taxpayer admits and denies as follows:

(1) The first three paragraphs of the petition are admitted.

(2) It is denied that the Bryson-Robison Corporation may include as a part of its invested capital for the years 1917, 1918 and 1919, an item of \$45,000.00 alleged to represent the value of real estate. It is denied that the said corporation owned the legal title to or the equitable title in said real estate, so as to permit the same to be treated as a part of its invested capital.

(3) It is denied that the Bryson-Robison Corporation authorized, paid or accrued during the years 1917 to 1919 inclusive the amount of \$5000.00 each as compensation to its two officers; and it is denied that said amounts may be claimed or allowed as deductions in computing the income of said corporation for said years.

(4) At the time the assessments were made against said corporation for additional taxes for the year 1917 to 1919 inclusive, it is denied that such assessments were inhibited or barred by the Statute of Limitations; and it is denied that the assessments that have been made against said corporation are not in all things proper. [12]

(5) It is denied that the petitioner is not a transferee of the assets of the said Bryson-Robison Corporation, within the meaning of Section 260 of the Revenue Act of 1926, and liable for the deficiency in tax due and owing by said corporation; and it is denied that due and proper notice has not been given to him for such liability.

(6) Denies generally and specifically each and every allegation contained in the taxpayer's petition not hereinbefore admitted, qualified or denied.

WHEREFORE, it is prayed that the taxpayer's petition be dismissed and the appeal denied.

A. W. GREGG,
General Counsel,
Bureau of Internal Revenue.

Of Counsel:

ROBERT A. LITTLETON,
Special Attorney,
Bureau of Internal Revenue.

[Endorsed]: United States Board of Tax Appeals.
Filed Mar. 4, 1927. [13]

[Title of Court and Cause.]

AMENDMENT TO ANSWER.

Comes now the Respondent above named and having first had and obtained leave so to do, amends his answer in the above-entitled cause as follows:

1. By striking paragraph 2 of said answer and substituting therefor the following, to-wit:

Answering the allegations contained in subdivision "second" of paragraph 4 of the petition herein, admits that the Commissioner of Internal Revenue failed and refused to allow as invested capital of Bryson-Robison Corporation, in computing said corporation's income and profits taxes for the years 1917, 1918 and 1919, *respectfully*, the sum of \$45,000.00; denies that such failure or refusal to allow said sum as invested capital was erroneous.

2. By adding the following paragraph, to-wit:

4(a) Answering the allegations contained in subdivision (c) of paragraph 5 of the petition herein, admits that Bryson-Robison Corporation transferred certain real property on or about March 1, 1917, by deed to Lester L. Robison and Elmer D. Bryson to be held by said grantees in trust for said corporation; admits that on or about March 1, 1917, Lester L. Robison and Elmer D. Bryson deeded said land back to said corporation; denies, generally and specifically, the remaining allegations in subdivision (c) of paragraph 5 of said petition. [14]

As a further, separate and distinct defense, Respondent alleges:

1. Refers to all the allegations contained in the petition herein except the allegations denied by Respondent's answer as amended and by such reference incorporates said allegations herein with the same force and effect as if set forth here at length.

2. Alleges that the Commissioner of Internal Revenue duly assessed against Bryson-Robison Corporation the additional taxes set forth on pages

two and three of the sixty-day letter, a copy of which is attached to the petition herein and marked Exhibit "A", as follows:

Deficiency in tax, 1917, after deducting abatement allowed,	\$ 2,863.42
Deficiency for 1918,	5,741.89
Deficiency for 1919,	2,973.54
<hr/>	
Total,	\$11,589.85

3. That said taxes have not been paid nor any part thereof.

4. Basing his allegations upon information and belief, Respondent alleges that on or about June 4, 1919, said corporation conveyed and transferred to petitioner herein and to one Lester L. Robison without consideration, all of its assets.

5. That the value of the assets transferred from said corporation to petitioner as aforesaid was in excess of \$11,588.85.

6. That said corporation ever since said transfer has been and now is without any assets whatever.

7. That said corporation has forfeited its charter and is dissolved.

8. That by reason of the premises the petitioner is liable for the entire sum of said deficiency of income and profits taxes for the years 1917 to 1919, inclusive, in the total amount of \$11,588.85. [15]

9. That the Commissioner of Internal Revenue erred in proposing, in the sixty-day letter of November 3, 1926, a copy of which is attached to the petition and marked Exhibit "A", assessment of

only one-half of said deficiencies instead of the entire amount thereof, against petitioner herein.

WHEREFORE, Respondent prays for a determination that the entire deficiencies of \$2,863.42 for the year 1917, \$5,741.89 for the year 1918 and \$2,973.54 for the year 1919, should be assessed against petitioner herein as transferee of the assets of Bryson-Robison Corporation.

General Counsel,
Bureau of Internal Revenue.

Of Counsel:

ELDEN McFARLAND,
ARTHUR CLARK,
Special Attorneys,
Bureau of Internal Revenue.

[Endorsed]: United States Board of Tax Appeals.
Filed at hearing Jun. 2, 1930. [16]

[Title of Court and Cause.]

Dockets Nos. 22184 and 22255.
Promulgated February 26, 1931.

FINDINGS OF FACT AND OPINION.

1. Transferee—Held petitioner Lester L. Robison not liable as transferee. Petitioner Elmer D. Bryson liable as transferee.

2. Increase of Deficiency—Section 308 (e) of the Act of 1926 gives the Board jurisdiction to increase the deficiency over that determined

by the Commissioner, if asserted by the Commissioner before or at the hearing, and the action of the Board in permitting respondent to amend his answer to that effect is not error.

3. Limitation—The burden of proof to establish the plea of limitation is on petitioners and where it is not shown when the return was filed the plea of limitation must fail, for lack of evidence to support it.

4. Tax Settlement—Petitioner's action in approval of a Revenue Agent's report does not establish a closing agreement under either Section 3229, Revised Statutes, or Section 606, Revenue Act of 1928.

5. Claims for invested capital and salaries allowed in part.

John F. Watson, Esq., and Herbert C. Bryson, Esq.,
for the petitioners.

J. E. McFarland, Esq., for the respondent.

These two cases were consolidated for hearing and decision. They involve deficiencies in income and profits taxes determined against the Bryson-Robison Corporation of \$2,863.42 for 1917; \$5,741.89 for 1918 and \$2,973.54 for 1919, and now sought to be collected from the petitioners as transferees of the assets of the taxpayer. The total amount of the defi- [17] ciencies was \$11,578.85. In his deficiency letter the respondent only proposed one-half thereof, viz., \$5,789.42 against each transferee, but at the hearing, by permission of the Board, filed amended answers increasing the claim against each

petitioner to the full amount. Errors complained of by the petitioners will be fully stated in the Opinion.

FINDINGS OF FACT.

The petitioner, Lester L. Robison, is an individual and resides at R. F. D. #4, Walla Walla, Washington, and the petitioner, Elmer D. Bryson, is an individual and resides at 605 Boyer Avenue, Walla Walla, Washington. In 1916, the taxpayer Bryson-Robison Corporation was organized under the laws of the State of Washington for the purpose of engaging in farming, raising sheep and the operation of a sheep ranch. Its capital stock was \$100,000.00 divided equally between the petitioners, except that the wife of each held one share each for organization and qualification purposes. The corporation engaged in business until June 4, 1919, when the petitioner Elmer D. Bryson purchased the stock and interest of the petitioner Lester L. Robison in the corporation for the sum of \$70,000.00, took possession of its entire assets and operated the business thereafter as an individual. Prior to the sale by Robison of all his shares of stock in the corporation to Bryson, to-wit, on April 22, 1919, a petition to dissolve the corporation was filed in the Superior Court for Walla Walla County, but no final judgment was ever entered. However, it became dissolved by operation of the laws of the State of Washington, as will be seen by the certificate of the Secretary of State of the State of Washington, dated May 14, 1930, and reading as follows:—

I, J. Grant Hinkle, Secretary of State of the State of Washington and custodian of the Seal of said State, do hereby certify that I have carefully examined the records of this [18] office and find that the "Bryson-Robison Corporation", a domestic corporation of Walla Walla, Washington, filed a copy of its articles of incorporation in this office on the 13th day of October, 1916.

I further certify that the above mentioned corporation was stricken from the records of this office July 1, 1921, and was further "Stricken from Records and dissolved" July 1, 1924 under the provisions of Chapter 144, Laws of Washington of 1923, for failure to pay the annual license fees and accruing penalties, the last license fee paid being for the fiscal year ending June 30, 1919.

And I further certify that the above mentioned corporation has had no legal corporate existence since stricken July 1, 1921, pursuant to Chapter 140, laws of 1907.

Upon its organization the corporation purchased certain lands at a cost of \$40,000.00 for its business purposes. Other smaller tracts were afterwards purchased, but the cost was not shown.

No formal corporate meetings were held and no regular set of books or accounts were kept. The principal records of the corporation were canceled checks and sheets of paper showing receipts and disbursements of the corporation. Robison was

President and Bryson was Secretary and Treasurer. In verbal agreement it was understood that each should receive a salary of \$5,000 per year. This was paid for the year 1918, but none was paid in 1917 or in 1919. Petitioners devoted most of their time to the business performing various duties connected with the business during the taxable year up to June 4, 1919, when the corporation ceased to do business. A reasonable allowance for salary for 1917 is \$2,500 for each petitioner and for 1919 until June 4 an allowance of \$2,500 in full for both petitioners, or \$1,250 each, is reasonable.

There is no evidence in the record as to the date of the filing of the tax returns of the corporation for the taxable years 1917 and 1918. That for 1919 was filed March 15, 1920, and was signed by petitioner [19] "Elmer D. Bryson, sole remaining officer". On February 12, 1923, a one year waiver for the Bryson-Robison Corporation for 1917 was executed and reads as follows:—

INCOME AND PROFITS TAX WAIVER.

Feb. 12, 1923.

In pursuance of the provisions of subdivision (d) of Section 250 of the Revenue Act of 1921, Elmer D. Bryson, of Walla Walla, Wash., and the Commissioner of Internal Revenue, hereby consent to a determination, assessment, and collection of the amount of income, excess-profits, or war-profits taxes due under any return made by or on behalf of the said Bryson-Robison Cor-

poration for the year 1917 under the Revenue Act of 1921, or under prior income, excess-profits, or war-profits tax Acts, or under Section 38 of the Act entitled "An Act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes", approved August 5, 1909, irrespective of any period of limitations.

This waiver will be effective only one year from date of signing

(Sgnd) Elmer D. Bryson,

Taxpayer,

as former Secretary—Bryson-Robison Corp.

(Sgnd) D. H. Blair, c.

Commissioner.

On January 2, 1924, an unlimited waiver for 1917 and 1918 for the corporation was executed and reads as follows:

INCOME AND PROFITS TAX WAIVER.

In pursuance of the provisions of subdivision (d) of Section 250 of the Revenue Act of 1921, Bryson-Robinson Corp., of Walla Walla, Washington and the Commissioner of Internal Revenue, hereby consent to a determination, assessment and collection of the amount of income, excess-profits, or war-profits taxes due under any return made by or on behalf of the said Corporation for the years 1917 and 1918 under the Revenue Act of 1921, or under prior income, excess-profits, or war-profits tax Acts, or under Section 38 of the Act entitled "An Act

to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes'', approved August 5, 1909, irrespective of any period of limitations.

(Sgnd) Elmer D. Bryson,
Former Secretary of the Bryson-Robison Corp.

Taxpayer,

(Sgnd) D. H. Blair, c.

Commissioner.

The deficiencies were assessed against the taxpayer corporation as [20] follows:—for 1917 on March 21, 1924; for 1918 on September 1, 1925, and for 1919 on March 14, 1925. These assessed taxes remain unpaid. The sixty day letters to the petitioners as transferees were mailed November 3, 1926. The net value of the assets transferred to Bryson exceeded the amount of the deficiencies.

OPINION.

BLACK:—Each of the petitioners based his appeal on the following assignments of error:

That the Commissioner of Internal Revenue in arriving at the amount of the invested capital of the Bryson-Robison Corporation erroneously reduced the said invested capital by the sum of \$45,000.00.

That the Commissioner in arriving at the net income of the Bryson-Robison Corporation in error disallowed the salaries of the corporation officers for the years 1917 and 1919. That said lawful and prior deduction for salaries during

1917 was the sum of \$10,000, (the same as allowed in 1918), and for 1919 was at the rate of \$10,000 per year up until June 4, 1919 when the company ceased to operate as a going concern. Disallowing said salaries was in error.

The Commissioner erred in determining petitioner to be a transferee of one-half the assets of the corporation of Bryson-Robison Corporation on dissolution thereof.

That all of said proposed assessment against the petitioner is barred by operation of the Statute of Limitations.

In addition to the foregoing assignments of error, each of the petitioners complain of the action of the Board in allowing respondent at the hearing to amend his answer and assert a liability against each petitioner for all of the deficiency determined against the transferor corporation, instead of the assertion of a liability for one-half of the deficiency against each petitioner contained in the sixty day letter mailed to each of said petitioners November 3, 1926. We think the allowance of the amendment was proper. Section 308 (e) of the Revenue Act of 1926. *Louis M. Weiller*, 18 B. T. A. 1121.

Petitioners' assignment of error that respondent erred in failing to include as invested capital of the taxpayer for the taxable years certain [21] real estate belonging to it, which it had purchased with funds belonging to the corporation, is sustained to the extent of the costs of such lands, proved at the hearing. Respondent, by amended answer filed at

the hearing, confessed error in failing to allow the costs of such lands as a part of the corporation's invested capital, but contested the amount of costs claimed. Petitioners claim the value of the land at \$45,000 or over, and ask that the invested capital of the corporation be increased by that amount. Petitioners proved that \$40,000 was paid for 10,360 acres of land used in the corporation's business. It was also proved that the corporation purchased other small tracts of land, but no evidence was offered as to the cost thereof. We cannot allow as a part of the corporation's invested capital, assets, the cost of which is not proved. In view of the admissions by respondent in his amended answer, invested capital should be increased by \$40,000 over that which respondent allowed in his deficiency letters. Any increment in value over cost may not be included in invested capital. *La Belle Iron Works*, 256 U. S. 377.

Relative to the claim for salaries for 1917 and from January 1, 1919, to June 4, 1919, we think the evidence is sufficient to show that the amounts set out in our Findings of Fact would represent a reasonable allowance to the corporation for salaries incurred for personal services actually rendered to it during the period of time therein mentioned by Robison, President, and Bryson, Secretary-Treasurer. The respondent will make this allowance in recomputing the deficiency.

As to whether petitioners are liable as transferees, we think the facts show that Robison is not liable as a transferee, but that Bryson is so liable, under the

applicable statutes and the decisions of this Board. The attorney who represented the corporation in its various legal matters testified that Robison sold his stock to Bryson and that such stock was actually transferred [22] to Bryson. This statement of the transaction seems to be well supported by the other evidence in the proceeding. There is nothing to show that prior to his sale of stock to Bryson, Robison received one-half of the assets of the corporation in liquidation and then sold these assets to Bryson. On the contrary, the facts show that Robison sold his stock and interest in the corporation to Bryson for \$70,000; whereupon Bryson took over all the assets of the corporation and assumed all of its liabilities and from that time on, operated the business as an individual and not as a corporation. We hold that Robison is not a transferee of the corporation. The mere sale of stock by a stockholder in a corporation does not make him a transferee of the assets of the corporation. But the action of Bryson taking over all the assets of the corporation and assuming all of its liabilities, makes him a transferee of the assets of such corporation and liable as such. *J. W. Oglesby*, 16 B. T. A. 1191; *Frank Shloudeman*, 21 B. T. A. 605; *John Gerasom, et al*, 21 B. T. A. 1234.

Limitation is pleaded as to the deficiencies determined against the transferor corporation for each of the taxable years and the validity of the waivers is vigorously attacked in briefs of counsel. The burden of proof is upon the petitioners to establish

the plea of the statute of limitations and this requires first proof of date of the filing of the statutory returns and second, the expiration of the statutory period. There is no evidence of the date of the filing of the statutory returns of the corporation for either 1917 or 1918 and for that reason the plea of limitation must fail for those years. *Edward M. Lawrence*, 3 B. T. A. 40; *E. J. Lorie*, 21 B. T. A. 612. Petitioners in their briefs refer to the assessment lists introduced in evidence by the respondent, showing that the deficiencies determined against the transferor corporation for each of the taxable years were duly assessed, but these assessment lists do not in any way show when the corporations' tax returns for 1917 [23] and 1918 were filed. We are without any evidence on this point.

Under these circumstances it is immaterial whether the two waivers are valid or not. Even if we should hold them to be invalid, we have no evidence before us which would support petitioner's plea of limitation.

Relative to the taxable year 1919, that return was introduced in evidence and shows that it was filed March 15, 1920, and the assessment against the taxpayer corporation made March 14, 1925, which was in time.

Section 280 (b) (2), Revenue Act of 1926, provides: "If the period of limitation for assessment against the taxpayer expired before the enactment of this Act but assessment against the taxpayer was made within such period,—then six years after the

making of such assessment against the taxpayer, but in no case later than one year after the enactment of this Act." See also Section 278 (d) Revenue Act of 1926.

The Act of 1926 was effective February 26, 1926, and one year thereafter was February 26, 1927. The deficiency letters in this case, asserting liabilities against the respective petitioners, were mailed November 3, 1926, and were in time.

Counsel for petitioner Bryson urges in his brief an alleged settlement in behalf of his client. Failure to recognize such a settlement was not alleged as an error in the petition and the rule is that an issue argued in brief of counsel, but not raised in the pleadings will be disregarded. There is no evidence in the record of any settlement either under Section 3229, Revised Statutes, or Section 606, Revenue Act of 1928. The document urged by petitioner Bryson as supporting his contention that a settlement was made, is simply a report of a revenue agent recommending a refund of [24] \$7.45 for 1920 and no change for 1919. This is no closing agreement as contemplated under the applicable Revenue Acts. *Oilbelt Motor Co.*, 16 B. T. A. 831.

As to petitioner Lester L. Robison, decision will be entered that there is no liability as transferee.

As to petitioner Elmer D. Bryson, decision will be entered under Rule 50.

[Seal]

[Endorsed]: United States Board of Tax Appeals. A true copy: Teste. B. D. Gamble, Clerk. [25]

[Title of Court and Cause.]

Docket Nos. 22255 and 22184.

John F. Watson, Esq., and Herbert C. Bryson, Esq.,
for the petitioners.

J. E. McFarland, Esq., for the respondent.

MEMORANDUM OPINION AND ORDER.

BLACK: Findings of fact and opinion in this proceeding were promulgated February 26, 1931, and pursuant thereto decision was entered February 26, 1931, that there was no liability of petitioner, Lester L. Robison, as transferee in respect of the tax of the Bryson-Robison Corporation for the years 1917, 1918 and 1919. Final decision under Rule 50 has not yet been entered as to petitioner Elmer D. Bryson.

On March 14, 1931, petitioner, Elmer D. Bryson, filed his motion to reopen this proceeding for additional evidence. As reasons why the proceeding should be reopened for additional evidence, petitioner urges three grounds:

(1) Statute of limitations as to 1917 and 1918. Petitioner claims that the Board erred in its findings of fact in stating that the income tax returns of the Bryson-Robison Corporation for 1917 and 1918 were not introduced in evidence. Petitioner Bryson claims that these returns [26] were in fact introduced in evidence at the hearing held at Spokane, Washington, June 2, 1930, and were received as exhibits in the case.

An examination of the record shows that petitioner Bryson is in error in this contention. An

examination of the record shows that petitioner introduced at the hearing the following exhibits:

- 1—Mortgage dated 6/4/19.
- 2—Contract dated 6/4/19.
- 3—Petition for dissolution.
- 4—Record of dissolution.
- 5—Waiver.
- 6—Letter 12/26/23.
- 7—Letter 10/24/24 and RAR.

The respondent introduced at the hearing the following exhibits:

- A—1919 return.
- B—Assessment List 1917.
- C—Assessment List 1918.
- D—Assessment List 1919.
- E—Waiver 1917.
- F—Letter 2/7/24.
- G—Letter 6/30/24.
- H—Claim for abatement 4/16/24.
- I—Claim for abatement 4/18/24.

As will be seen from the foregoing statement of exhibits received at the hearing, the income tax return of the Bryson-Robison Corporation for 1919 was introduced in evidence as Respondent's Exhibit A, but neither the petitioner nor the respondent at any time during the hearing introduced or offered to introduce the income tax return of the corporation for 1917 and 1918. Petitioner was permitted to introduce every exhibit that he tendered at the hearing. [27]

However it is apparent from the questions and answers in the record that the income tax returns

of the corporation for 1917 and 1918 were in the custody of the counsel for respondent and were present at the hearing and we think it is a fair inference that counsel for the petitioner Bryson was under the impression that such returns were in evidence before the Board because produced at the trial by counsel for respondent. Petitioner attaches to his motion for rehearing a statement from the Collector of Internal Revenue at Tacoma, Washington, stating that the corporation returns for 1917 and 1918 were filed as follows:

The return for the year 1917 was filed on March 30, 1918.

The tentative return for the year 1918 was filed on March 14, 1919.

The complete return for 1918 was filed on June 16, 1919.

The return for the year 1919 was filed on March 15, 1920.

(2) Petitioner asks that the case be reopened for the purpose of taking additional evidence by deposition of Herbert C. Bryson, John F. Watson, Marvin Evans, and Elmer D. Bryson, upon the question of transferee liability of both petitioners, Lester L. Robison and Elmer D. Bryson, and more particularly as to whether the shares of stock owned by Lester L. Robison in the corporation were actually transferred by Robison to Bryson. In view of the testimony given by petitioner, Elmer D. Bryson himself, at the former hearing, we believe that this ground for a rehearing urged by the petitioner is

without merit. This testimony at the hearing was as follows: [28]

Q. Will you state your name, Mr. Bryson?

A. Elmer D. Bryson.

Q. Where do you live?

A. Walla Walla.

Q. What is your business?

A. Sheep raiser.

Q. Were you a member of the Bryson-Robison Corporation, the taxpayer in these cases in June of 1919?

A. Yes, sir.

Q. Did you receive some of the property that formerly had been the property of the corporation in June, of 1919?

A. I took over all of the business there.

Q. You took over all of the business?

A. Yes, sir.

Q. Will you state what the nature of that transaction was; I mean will you describe that transaction, and state what took place?

A. Well, I bought Mr. Robison's share of the business and just simply gave him \$70,000 for his half.

Q. Of the business?

A. And took it over.

Q. And then you took over the business yourself as an individual?

A. Yes, sir.

Q. Did you do that after you took over his share or at the same time or before?

A. Well we had started dissolution proceedings prior to this, but we had not finished.

Cross Examination

Q. In other words, there had not been any distribution of the property from the corporation to the individuals before that time?

A. No. [29]

Q. You just took over Mr. Robison's interest in the corporate business and assets?

A. Yes, sir, we treated it practically as a partnership business rather than a corporation and I took over everything.

Q. That was true all the way through?

A. Yes, sir.

Q. You kept no formal books and records?

A. No.

Q. But it was, in fact, a corporation?

A. Yes, it was a corporation.

Mr. Watson: That is all.

The Member: Were the assets you took over described in the deed of conveyance that has been offered here?

The Witness: The real estate was but not the personal property.

Mr. Watson: But you did take over the personal property?

The Witness: Yes, I took over everything.

The Member: That is all, Mr. Bryson.

As pointed out in our findings of fact and opinion promulgated February 26, 1931, the above testimony

of petitioner was corroborated by the witness Crow who was the attorney for the corporation who drew up the papers connected with a petition which was filed in the Superior Court for Walla Walla County to dissolve the corporation. The witness Crow testified that Robison made an actual physical transfer of his shares of stock to petitioner Bryson, but even if he is mistaken in that statement and there was no actual transfer of the physical certificate for shares of stock in the corporation, it seems clear that Robison transferred to Bryson his shares or interest in the corporation and that it was not a transfer of physical assets of the corporation by Robison [30] to Bryson. Of course if the corporation had been dissolved at the time the petition was filed with the Superior Court of Walla Walla County and the assets of the corporation had thereupon been distributed in liquidation to the two stockholders, Robison and Bryson, this transfer would make Robison as much a transferee as Bryson, but there is nothing in the record to show that the corporation was liquidated prior to Robison selling his interest and that any of the assets of the corporation were actually transferred to him. What was done—Robison sold his shares or interest in the corporation to Bryson and thereafter Bryson took charge of all of the assets and ceased to operate the corporation. Under the decisions cited in our former opinion this action clearly makes Bryson a transferee of the corporation but does not make Robison a transferee. The statute places the burden of proof on the respondent to

show transferee liability and this he failed to do in the case of petitioner Lester L. Robison. While it may be perfectly true that Bryson got decidedly the worst end of the bargain in buying out Robison, that fact does not have any bearing upon the question of transferee liability.

We therefore decline to set aside the decision entered February 26, 1931, holding Lester L. Robison not liable as transferee for any amount in respect to the tax of the Bryson-Robison Corporation for the years 1917, 1918, and 1919. [31]

(3) Petitioner Bryson asks that rehearing be granted so he can offer evidence that certain lands excluded from the invested capital of the Bryson-Robison Corporation for the taxable years 1917, 1918 and 1919 had a cost of \$55,000. The evidence shows that the respondent only excluded \$45,000 from the corporation's invested capital on account of these lands and that such exclusion was on account of the fact that the lands had been deeded prior to the taxable years by the corporation to third parties. However, at the hearing respondent amended his answer and conceded that his action in excluding these lands from the invested capital of the transferor corporation was error but respondent did not admit in his answer that the cost of the lands was \$45,000 as contended by the petitioner in his pleadings. This amended answer of the respondent put petitioner on proof of the cost of these lands and the only cost established at the hearing was \$40,000. Considerable testimony was offered

at the hearing as to the increase in value of these lands but, as pointed out in our opinion, appreciation in value of assets constituting a part of the taxpayer's invested capital does not increase invested capital. Invested capital is determined by the cost of the assets. Inasmuch as the decision of the Board awards the corporation an additional invested capital over that allowed by the Commissioner of \$40,000, which was all the cost which petitioners proved, instead of \$45,000 as excluded by the respondent, it is not believed that the proceeding should be reopened as to that issue. Petitioner's motion on that ground is accordingly denied. [32]

In view of petitioner Bryson's plea of the statute of limitations and his evident belief and understanding that the income tax returns of the Bryson-Robison Corporation for the years 1917 and 1918 were in evidence, his motion for a rehearing on that ground is granted and the proceeding is reopened for further hearing as to petitioner Bryson on the issue of the statute of limitations and is restored to the day calendar for hearing in Washington, D. C., April 29th, 1931.

(Signed) EUGENE BLACK

Member,

U. S. Board of Tax Appeals.

[Endorsed]: United States Board of Tax Appeals.
A true copy: Teste. B. D. Gamble, Clerk.

[Endorsed]: United States Board of Tax Appeals.
Enter and serve on parties. Not to be stenciled.
Mar. 25, 1931. Logan Morris, Chairman.

[Endorsed]: United States Board of Tax Appeals.
Entered Mar. 28, 1931. [33]

[Title of Court and Cause.]

Docket No. 22255.

Herbert C. Bryson, Esq., for the petitioner.

J. E. McFarland, Esq., for the respondent.

MEMORANDUM OPINION.

BLACK: Findings of Fact and opinion were promulgated in this proceeding February 26, 1931, and are reported in 22 B. T. A. 395, to which reference is hereby made.

In said report decision was made against petitioner, Elmer D. Bryson, on his plea of the statute of limitations as to all of the taxable years involved. The decision as to the taxable years 1917 and 1918 was based upon petitioner's failure to introduce any evidence as to the time of filing the income tax returns of Bryson-Robison Corporation for the taxable years 1917 and 1918. Without [34] such evidence petitioner failed to make out a prima facie case of the running of the statute of limitations and his plea of limitation could not be sustained. In a motion for a rehearing, petitioner set out what appeared to be good and sufficient reasons for his failure to offer such proof. The Board granted the motion for rehearing and has now been furnished with evidence as to the time of filing of the income tax returns of Bryson-Robison Corporation for the

years 1917 and 1918. This evidence shows that the return for 1917 was filed March 30, 1918, and therefore assessment and collection of any deficiency in the tax for 1917 from Bryson-Robison Corporation was barred by the statute of limitations on March 30, 1923, and any assessment after that date was null and void unless made under a valid waiver executed prior thereto for and on behalf of the taxpayer, Bryson-Robison Corporation.

The return of said corporation for 1918 was filed June 16, 1919, and therefore assessment and collection of any deficiency for 1918 from the transferor corporation was barred June 16, 1924, unless extended by a valid waiver. At the hearing a waiver dated January 2, 1924, covering the years 1917 and 1918 was introduced in evidence and reads as follows: [35]

INCOME AND PROFITS TAX WAIVER

In pursuance of the provisions of subdivision (d) of Section 250 of the Revenue Act of 1921, Bryson-Robison, Corporation of Walla Walla, Washington, and the Commissioner of Internal Revenue, hereby consent to a determination, assessment, and collection of the amount of income, excess-profits, or war-profits taxes due under any return made by or on behalf of the said Corporation for the years 1917 and 1918 under the Revenue Act of 1921, or under prior income, excess-profits, or war-profits tax Acts, or under Section 38 of the Act entitled "An Act to provide revenue, equalize duties, and encourage the industries of the United States, and

for other purposes'', approved August 5, 1909, irrespective of any period of limitations.

Elmer D. Bryson

Former Secretary of the Bryson-
Robison Corp.

Taxpayer.

By: D. H. Blair,

Commissioner.

If this waiver is executed on behalf of a corporation, it must be signed by such officer or officers of the corporation as are empowered under the laws of the State in which the corporation is located to sign for the corporation, in addition to which, the seal, if any, of the corporation must be affixed. [36]

Petitioner Bryson contends that this waiver is entirely ineffective to extend the period of limitations applicable to the assessment and collection of taxes for the years 1917 and 1918 against Bryson-Robison Corporation, for two reasons: (1) the corporation was dissolved July 1, 1921, and was powerless to act at the time the waiver was signed, to-wit, January 2, 1924, and the signer of the waiver, Elmer D. Bryson, had no power or authority to act for the corporation; (2) even if it be conceded that under some statute of the State of Washington the existence of the corporation was continued after the date of its dissolution for the purpose of winding up its affairs, nevertheless the waiver, on its face, taken together with the letter accompanying it, shows that it was not executed for and on behalf of the

corporation but was executed for and on behalf of Elmer D. Bryson as an individual and therefore did not have the effect of extending the statute of limitations affecting the assessment and collection of taxes against the corporation.

In support of contention (1), petitioner offered in evidence a certificate from the Secretary of State of Washington, showing the date of the dissolution of the corporation to be July 1, 1921. This certificate reads as follows: [37]

I, J. Grant Hinkle, Secretary of State of the State of Washington and custodian of the Seal of said State, do hereby certify that I have carefully examined the records of this office and find that the "BRYSON-ROBISON CORPORATION", a domestic corporation of Walla Walla, Washington, filed a copy of its articles of incorporation in this office on the 13th day of October, 1916.

I further certify that the above mentioned corporation was stricken from the records of this office July 1, 1921, and was further "Stricken from Records and dissolved" July 1, 1924 under the provisions of Chapter 144, Laws of Washington of 1923, for failure to pay the annual license fees and accruing penalties, the last license fee paid being for the fiscal year ending June 30, 1919.

And I further certify that the above mentioned corporation has had no legal corporate existence since stricken July 1, 1921, pursuant to Chapter 140, Laws of 1907.

In view of the date of the dissolution of the corporation as shown by the foregoing certificate, and the statutes with reference to dissolved corporations of the State of Washington, we think it questionable whether any one had the power to execute a waiver for the dissolved corporation on January 2, 1924 (the date the waiver in question was executed). But we feel that it is unnecessary to decide this question for the reason that, in our judgment, petitioner's contention No. (2) should be sustained. [38]

While it is true that the body of the waiver recites that the "Bryson-Robison Corporation and the Commissioner of Internal Revenue, hereby consent," etc., nevertheless the waiver is signed by Elmer D. Bryson as an individual who describes himself as the former Secretary of the Bryson-Robison Corporation, taxpayer. The waiver does not bear the seal of the corporation and moreover the waiver was transmitted to the Commissioner accompanied by a letter which strictly put the Commissioner on notice that Bryson was not executing the waiver for and on behalf of the corporation but that on the contrary he had no power to act for the corporation and was not assuming to do so. This letter reads as follows:

Commissioner of Internal Revenue,
Washington, D. C.

Sir:

Re: Your IT:CA:Ms 2506-WHS-App.

Elmer D. Bryson has handed me your office letter of the 19th inst. addressed to Bryson-

Robison Corporation, in his care, advising that it will be necessary for this corporation within twenty days from the date of your letter to advise you of its acquiescence in the determination of net income and invested capital as found by the Revenue Agent's report dated October 22, 1923, in order that you may further consider an application for computation of tax under the provisions of Section 210, Revenue Act 1917 and Sections 327-8, Revenue Act 1918. [39]

You have already been informed that this corporation has been entirely out of business since July 1919, and since that date has not owned or possessed any property of any character and the corporation has long since been stricken from the corporate rolls of this state where it was incorporated. It has not functioned in any manner since that date, and being stricken from the corporate rolls naturally the former officers of the corporation cannot legally presume to act for it since it no longer exists.

During the life of the corporation Elmer D. Bryson was secretary of the corporation, but will not presume to assume to act in that capacity after all of these years since its dissolution. The only way he could make a report would be that as that of an individual, who was formerly secretary of a corporation which has been defunct for a period of over four and one half years, and during which period it has

neither functioned nor owned any property.
(underscoring supplied.)

Your office letter above referred to is being by him referred to Cosper Accounting Company, who has been looking after this matter and it will probably give your letter such further attention and reply as it deems proper and necessary. We deemed it proper that this status of affairs should now again be called to your attention, as no former officer will assume any authority not vested in him.

Yours very truly,

Herbert C. Bryson.

We think it is clear from a reading of the foregoing letter, dated December 26, 1923, that when Elmer D. Bryson executed the waiver in question and transmitted it to the Commissioner, he made it plain to the Commissioner that he was not executing it as a former officer of [40] the corporation but merely as an individual who repudiated any claim that he had authority to act for the corporation. Under these circumstances the situation is entirely different from that which existed in *Commissioner v. Godfrey*, 50 Fed. (2d) 79 and *H. D. Waldrige & Co.*, 25 B. T. A. 1109. Those were cases where the waivers in question were executed under the seals of the taxpayer corporations, and in the name of the corporations and by some one having the legal authority to act. We have, as already pointed out, an entirely different situation before us in the instant case.

The most that could be said for the waiver which we have set out above, is that it was executed by Bryson as a transferee of the assets of the original taxpayer and we have held that a waiver executed by a transferee purporting to extend the time of assessment and collection of the tax against the original taxpayer, is ineffective to extend the statute of limitations as to the original taxpayer. *Carnation Milk Products Co.*, 15 B. T. A. 566.

We therefore conclude that assessment and collection of the tax against the transferor corporation for 1917 became barred March 30, 1923, and that the assessment which the Commissioner made for 1917, on March 21, 1924, was null and void. For the same reason we hold that assessment and collection of the tax against the transferor corporation for the year 1918 was barred June 16, 1924, and that the assessment made by the Commissioner, September 1, 1925, for 1918 was likewise null and void. [41]

In our opinion promulgated in this proceeding February 26, 1931, 22 B. T. A. 395, we held that assessment and collection of the deficiency against the transferor corporation for 1919 was not barred by the statute of limitations. Petitioner Bryson in his motion for rehearing assails the correctness of this ruling but a re-examination of all the facts and a reading of the authorities cited by petitioner leaves us unconvinced of any error in our ruling as to the year 1919.

An examination of the evidence shows that the return of taxpayer corporation for 1919, was filed

March 15, 1920. Under the applicable statute of limitations, assessment and collection of the tax for 1919 would have been barred March 15, 1925, but prior thereto, to-wit, March 14, 1925, respondent assessed the asserted deficiency against the transferor corporation and this assessment* was legal. Has the statute of limitation run in favor of the petitioner, Elmer D. Bryson, as transferee against the assessment and collection from him of this \$2,973.54 assessed by the Commissioner against Bryson-Robison Corporation, March 14, 1925? We think not. This assessment was made after the enactment of the Revenue Act of 1924 and is not affected by the decision in *Russell v. United States*, 278 U. S. 181, and could have been collected from the transferor corporation within six years after the assessment, or prior to March 14, 1931.

This period of six years had not expired prior to the enactment of the Revenue Act of 1926, containing section 280 (transferee section) [42] and had not expired prior to the date of respondent's deficiency notice in this proceeding and hence we hold collection of the deficiency for 1919 was not barred under prior acts at the time such deficiency notice was mailed. *Commissioner v. Jonathan Godfrey*, *supra*.

Petitioner further contends that the assessment of the 1919 deficiency made by the Commissioner of Internal Revenue, March 14, 1925, against the Bryson-Robison Corporation was a nullity because proper notice was not given thereof. We think this contention is without merit. Respondent introduced

in evidence a document entitled, "Assessment List, District of Washington. Month March Special #7, year 1925. Additional assessment made by Commissioner. Personals \$136,336.01, corporations \$50,-878.17." Included in the additional assessments made against corporations was \$2,973.54 against Bryson-Robison Corporation, Walla Walla, Washington, and attached to the assessment list is this certificate: "I hereby certify that I have made inquiries, determinations and assessment of taxes, penalties, etc. of the above classification specified in these lists, and find that the amounts of taxes, penalties, etc. stated as corrected and as specified in the supplementary pages of this list made by me, are due from the individuals, firms, and corporations opposite whose names such amounts are placed, and that the amount chargeable to the collector is as above. Dated at Washington, D. C. Office of Commissioner of Internal Revenue, March 14, 1925." [43]

We think this evidence, above quoted, discloses a legal assessment of the deficiency for 1919 and we therefore overrule petitioner's assignment of error which attacks its validity.

Petitioner Bryson also strongly urges in his brief that we permit an amendment to his petition to conform to the proof; admit and consider petitioner's exhibit #7 which he claims conclusively establishes a complete settlement between Bryson-Robison Corporation and Elmer D. Bryson on the one hand and the Commissioner of Internal Revenue on the other hand, and that by reason thereof we hold that there is no deficiency for 1919. Petitioner's exhibit #7

was admitted in evidence and is before us for consideration, and if it showed a valid closing agreement for the year 1919, as defined by the statute, we would find that there was no deficiency for 1919. But the exhibit to which petitioner refers does not evidence a closing agreement as defined by statute.

Exhibit #7 is the report of an internal revenue agent covering the years 1919, 1920 and 1921, of the taxes of Elmer D. Bryson as an individual. It does not purport to deal in any respect with the liability of Elmer D. Bryson as the transferee of the assets of the Bryson-Robison Corporation. The proceeding which we are now considering deals with the liability of petitioner, Bryson, as a transferee of the assets of Bryson-Robison Corporation and with nothing else. This revenue agent's report (Petitioner's exhibit #7) agreed [44] to by Bryson, could not be considered in any respect as a closing agreement affecting Bryson's liability as a transferee of the assets of Bryson-Robison Corporation. Therefore it would not affect in any way the questions which we have to decide in this proceeding. However, in view of petitioner Bryson's insistence in his brief, we point out that even as to Bryson's individual tax liability, the document in question does not evidence a closing agreement as defined by statute.

Section 1006, Revenue Act of 1924, which governs the alleged closing agreement because it is dated in 1924, defines a closing agreement as follows:

If after a determination and assessment in any case the taxpayer has paid in whole any tax or penalty, or accepted any abatement, credit, or re-

fund based on such determination and assessment, and an agreement is made in writing between the taxpayer and the Commissioner, with the approval of the Secretary, that such determination and assessment shall be final and conclusive, then (except upon a showing of fraud or malfeasance or misrepresentation of fact materially affecting the determination or assessment thus made) (1) the case shall not be reopened or the determination and assessment modified by any officer, employee, or agent of the United States, and (2) no suit, action or proceeding to annul, modify, or set aside such determination or assessment shall be entertained by any court of the United States. (Underscoring supplied.)

Petitioner has not shown any closing agreement assented to by the Secretary of the Treasury and his plea in that respect thereto is therefore denied. *Stein-Bloch Co.*, 23 B. T. A. 1162; *Botany Worsted Mills*, 278 U. S. 282. [45]

Decision will be entered that petitioner, Elmer D. Bryson, is not liable for any deficiency of Bryson-Robison Corporation for the years 1917-1918.

Decision will be entered that petitioner, Elmer D. Bryson, is liable for deficiency of Bryson-Robison Corporation for the year 1919, plus interest thereon as provided by law and said deficiency for 1919 will be redetermined in accordance with our findings of fact and opinion promulgated February 26, 1931, and

Enter:

[Endorsed]: Entered Jul. 20, 1932.

[Title of Court and Cause.]

Docket No. 22255.

ORDER.

The Board having promulgated its Opinion in the above entitled proceeding on February 26, 1931, and having entered its Memorandum Opinion therein on July 20, 1932, sustaining its Opinion of February 26, 1931, respecting the taxable year 1919, but holding that liability for 1917 and 1918 taxes was barred by the Statute of Limitations, the respondent filed herein on August 22, 1932, a motion for reconsideration and review of said Memorandum Opinion entered July 20, 1932. Respondent in support of his said motion filed a memorandum brief which has been carefully considered and all the authorities cited read and studied. It is not believed that respondent's said motion should be granted. On authority of *Barron-Anderson Company v. Commissioner*, 17 B. T. A. 686 and *Newport Company*, 22 B. T. A. 833, we hold that assessment and collection of the tax against the transferor corporation was barred by the Statute of Limitations prior to the enactment of the Revenue Act of 1926. Therefore, since assessment and collection of the liability of the transferor corporation were barred prior to passage of the Revenue Act of 1926, assessment and collection of the liability of the petitioner, as transferee, are also barred. *Caroline J. Shaw, Executrix*, 21 B. T. A. 400; *E. N. Ennis and others*, 21 B. T. A. 406. [47]

ORDERED; That said motion be and the same is hereby denied.

[Seal] (Signed) EUGENE BLACK,
Member, United States Board of
Tax Appeals.

[Endorsed]: Entered Sep. 22, 1932. [48]

United States Board of Tax Appeals.

Docket No. 22255

ELMER D. BRYSON,

Petitioner,

vs

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

DECISION.

On October 31, 1932, respondent filed in this proceeding a proposed determination of tax liability of petitioner, Elmer D. Bryson, as transferee of the assets of Bryson-Robison Corporation, under Rule 50, in accordance with the findings of fact and opinion promulgated by the Board, February 26, 1931, as modified by the memorandum opinion entered July 20, 1932. Said proposed determination filed by respondent was set for hearing under Rule 50 for January 4, 1933. Prior to said date petitioner filed objections to the determination of tax liability which had been filed by respondent. In said objections petitioner makes a computation of his own

based on an alleged error made by respondent in the inventory of lambs.

Petitioner alleges that on page 3 of Exhibit 7, which is a report of the Revenue Agent which was approved and acted upon by respondent, under the heading "Inventory 12th month, 31st day, 1919", an item of 100 lambs at \$8.15 each is carried in the inventory at a total of \$8,150. Following is a statement of this inventory as shown on page 3 of the Revenue Agent's report:

Inventories 12-31-19

1500 Ewes at \$4.00	\$ 6,000.00	
1700 Sheep at 8.91	15,147.00	
100 Lambs at 8.15	8,150.00	
Cattle	1,925.00	
	<hr/>	
Total closing inventories		31,222.00
		<hr/>

[49]

Petitioner claims that this inventory item should be reduced \$7,235 and that thus reduced it will affect the tax liability of the corporation in the amount shown in petitioner's computation. The discrepancy which petitioner points out in his said objection is manifestly a typographical error. An inspection of the item shows that it is plain that the inventoried item is 1,000 lambs at \$8.15 each instead of 100 lambs at \$8.15 each. That such discrepancy was plainly a typographical error is shown by an examination of page 21 of the same Revenue Agent's report on

which is shown the following statement as to inventories:

(b) Inventories increased by \$577.00 to agree with the corrected inventory shown in the report of the corporation as follows:

Old Inventory 1919		
1500 Ewes	at \$10.00	\$15,000.00
200 lambs	" 12.50	2,500.00
700 "	" 3.30	2,310.00
800 "	4.45	3,560.00
1000 "	5.35	5,350.00
Total		\$28,720.00

Revised inventory 1919 based on purchases
by the Walla Walla Meat & Cold Storage Co.

1500 ewes at	\$4.00	6,000.00
1700 sheep "	8.91	15,147.00
1000 lambs "	8.15	8,150.00
Total		\$29,297.00

We find no merit in petitioner's said objections, all of which have been carefully examined. We find the computation submitted by respondent is in accordance with the findings of fact and opinion of the Board promulgated February 26, 1931, as modified by the Board's memorandum opinion entered, July 20, 1932. Wherefore, premises considered, it is:

ORDERED AND DECIDED that petitioner, Elmer D. Bryson, is not liable for any deficiency of the Bryson-Robison Corporation for the year 1917 and 1918 because we have held that all such liability

is barred by the applicable statutes of limitation. Petitioner, Elmer D. Bryson, is liable as transferee of the assets of the Bryson-Robison Corporation for deficiency due for said corporation for the year 1919 to the amount of \$2,273.54, together with interest thereon as provided by law.

[Seal] (Signed) EUGENE BLACK,
Member, U. S. Board of Tax Appeals.

Entered: Jan. 26, 1933. [50]

[Title of Court and Cause.]

B.T.A. Docket No. 22.255

PETITION FOR REVIEW AND
ASSIGNMENTS OF ERROR.

To the Honorable Judges of the United States
Circuit Court of Appeals for the Ninth Circuit:
NOW COMES David Burnet, Commissioner of
Internal Revenue, by his attorneys, Sewall Key,
Special Assistant to the Attorney General; C. M.
Charest, General Counsel, Bureau of Internal Revenue,
and Elden McFarland, Special Attorney, Bureau of
Internal Revenue, and respectfully shows:

I.

The petitioner for review is the duly appointed, qualified and acting Commissioner of Internal Revenue of the United States, holding office by virtue of the laws of the United States. The respondent is an individual, an inhabitant of the Ninth Judicial Circuit of the United States, residing at Walla

Walla in the State of Washington. The income and profits tax returns of Bryson-Robinson Corporation for the years 1917 and 1918 were filed with the Collector of Internal Revenue for the collection District of Washington, which said collection district lies within the Ninth Judicial Circuit. [51]

II.

The petitioner determined a deficiency in income and profits taxes of Bryson-Robison Corporation for the calendar year 1917 in the amount of \$2,863.42 and for the calendar year 1918 in the amount of \$5,741.89; and on November 3, 1926, in accordance with the provisions of sub-division (a) (1) of Section 280 and of sub-division (a) of Section 283, Revenue Act of 1926, sent to respondent by registered mail a notice of said deficiencies, proposing to assess them against respondent as transferee of the property of Bryson-Robison Corporation. Thereafter, respondent duly filed with the United States Board of Tax Appeals his petition for redetermination of the deficiencies proposed in the notice of deficiency. The matter was heard by the Board of Tax Appeals on June 2, 1930. On February 26, 1931 the Board promulgated its interlocutory decision (reported at 22 B. T. A. 395), a second interlocutory decision (unreported) on March 28, 1931, a third interlocutory decision (unreported) on July 20, 1932, a fourth interlocutory decision on September 22, 1932 (unreported) and on January 26, 1933, entered its final decision and order of redetermination wherein it ordered and decided that respondent was

not liable for the deficiencies in income and profits taxes due from Bryson-Robison Corporation for the years 1917 and 1918 because his liability was barred by the statute of limitations.

III.

During the entire calendar years 1917 and 1918, Bryson-Robison Corporation was a corporation organized and existing under the laws of the State of Washington and was engaged in the business of raising sheep in the State of Washington. Respondent and Mr. Robison each owned one-half of the capital stock of the corporation. In June, 1919, Mr. Robison sold [52] his capital stock to Mr. Bryson for \$70,000.00. Mr. Bryson then caused all of the assets to the corporation to be transferred to himself; and as an individual he continued to conduct the business theretofore carried on by the corporation. The income and profits tax return of the corporation for the year 1917 was filed with the Collector of Internal Revenue at Tacoma, Washington, March 30, 1918, and that for the year 1918 was filed June 16, 1919. The annual corporation license fees required by the laws of Washington were paid for the corporation for the fiscal year ended June 30, 1919 but were not paid for subsequent years; and pursuant to the provisions of those laws the corporation was stricken from the rolls of the Secretary of State of Washington, July 1, 1921 and again on July 1, 1924.

On February 12, 1923 respondent executed a waiver whereby he, Elmer D. Bryson, consented to

the extension of the time within which determination, assessment and collection of the income and profits taxes of Bryson-Robison Corporation, might be made, for the period of one year from that date. An investigation and examination of the tax liability of the corporation was made by an agent of the Bureau of Internal Revenue. As a result of that examination petitioner notified respondent that additional taxes were due for the years 1917, 1918 and 1919 from the corporation. The respondent requested that the proposed taxes be reduced under the special assessment provisions of the Revenue Acts (Section 210, Revenue Act of 1917 and Sections 327 and 328 of the Revenue Act of 1918). In a letter dated December 19, 1923, petitioner replied that it would be necessary for the corporation to acquiesce in the Revenue Agent's report in order that the application for special assessment might be further considered.

Respondent replied by letter dated December 26, 1923, stating that inasmuch [53], as the corporation had been stricken from the corporate rolls and no longer existed, he could not legally presume to act either for the corporation or as secretary for the corporation, and that the only way he could make a report would be as an individual, who was formerly secretary of the defunct corporation. He further stated that the letter of December 19 was being referred to certain accountants who would give the letter such further attention and reply as was deemed proper and necessary.

With the letter of December 26, 1923, respondent enclosed a waiver dated January 2, 1924 signed "Elmer D. Bryson, former Sec'y of the Bryson-Robison Corporation, taxpayer", stating that Bryson-Robison Corporation consented to the determination, assessment and collection of its income and profits taxes for the years 1917 and 1918, irrespective of any period of limitations.

On February 7, 1924 and in further reply to petitioner's letter of December 19, 1923, respondent filed with the petitioner a protest against the proposed assessment of additional taxes for the years 1917 and 1918, against the corporation, signing the protest "Bryson-Robison Corporation, by Elmer D. Bryson, formerly Sec."

Additional taxes for the year 1917 in the amount of \$5,896.86 were assessed against the corporation March 21, 1924. In April, 1924, respondent filed two claims for abatement of the additional taxes assessed against the corporation for 1917, signing both claims "Elmer D. Bryson, formerly Secretary of Bryson-Robison Corporation"; and in June 30 he filed another protest signed "Bryson-Robison Corporation, Elmer D. Bryson, formerly Secretary."

The proposed additional taxes for the year 1918 in the amount of [54] \$5,741.89 were assessed against in corporation September 1, 1925. On September 18, 1925, the Commissioner signed a schedule allowing in part the claims in abatement for the year 1917, abating \$3,033.44 of the additional assessment and denying the claim as to \$2,863.42. The petitioner's final determination and denial of respondent's protests

was contained in the notice of deficiency mailed to respondent November 3, 1926, proposing to assert the corporation's liability against respondent as transferee of the corporation's property. Respondent thereupon filed his petition for re-determination with the United States Board of Tax Appeals. The Board held that respondent's liability in respect of the taxes due from the corporation for the years 1917 and 1918, was barred by the statute of limitations.

IV.

The nature of the controversy is such as to give rise to four questions:

1. Did the Bryson-Robison Corporation and the Commissioner of Internal Revenue consent in writing to extend the period of time within which assessment and collection of the income and profits taxes of Bryson-Robison Corporation for the years 1917 and 1918 might be made?

2. Did the respondent and the Commissioner of Internal Revenue consent in writing to extend the period of time within which assessment and collection of the income and profits taxes of Bryson-Robison Corporation for the years 1917 and 1918 might be made?

3. Does the execution of a waiver by a transferee of all the assets of a dissolved corporation, purporting to extend the time of assessment and collection of taxes against the corporation, extend the period of limitation for assessment and collection as to the transferee? [55]

4. Where, by reason of his execution of two waivers, the transferee of all of the assets of a dissolved corporation who also was the sole stockholder of the corporation at the time of its dissolution, has secured to himself the benefits (1) of a postponement of the assessment and collection of the taxes of the dissolved corporation beyond the statutory period for such assessment or collection except as extended by such waivers, (2) a consideration of his application for special assessment under the provisions of Section 210, Revenue Act of 1917, and Sections 327 and 328 of the Revenue Act of 1918; and (3) a consideration of his claim in abatement whereby a major portion of the additional tax assessed against the corporation for the year 1917 eventually was abated, is he estopped to deny the validity of the waivers?

V.

The petitioner desires to obtain a review of the aforementioned decisions of the United States Board of Tax Appeals by this Honorable Court.

VI.

The petitioner says that in the record and proceedings before the United States Board of Tax Appeals and in the decisions and order of redetermination promulgated and entered by the Board, manifest error occurred, and upon which he relies to reverse the said decisions and order of redetermination so promulgated and entered by the Board, to wit:

1. The Board erred in holding that the March, 1924, assessment against Bryson-Robison Corporation of the additional income and profits taxes for the year 1917, was barred by the statute of limitations.

2. The Board erred in holding that the September, 1925, assessment of additional income and profits taxes for the year 1918 against Bryson-Robison Corporation was barred by the statute of limitations. [56]

3. The Board erred in holding that the assessment and collection of the income and profits taxes due from Bryson-Robison Corporation, against respondent as a transferee of the property of that corporation was barred, by the statute of limitations.

4. The Board erred in holding that the waivers executed by the transferee of all of the assets of the original taxpayer purporting to extend the time of assessment and collection against the original taxpayer were ineffective to extend the statute of limitations either as to the original taxpayer or as to the transferee.

5. The Board erred in holding that the waiver of February 12, 1923 did not extend the period of time within which assessment and collection of the income and profits taxes of Bryson-Robison Corporation might be made.

6. The Board erred in failing to hold that the waiver of January 2, 1924 was executed for and on behalf of the Bryson-Robison Corporation.

7. The Board erred in failing to hold that respondent did have authority to execute the waiver

of January 2, 1924 on behalf of the taxpayer corporation.

8. The Board erred in holding that the assessment and collection of the tax against the corporation for the year 1917 became barred March 30, 1923.

9. The Board erred in holding that the assessment and collection of the tax against the corporation for the year 1918 became barred June 16, 1924.

10. The Board erred in holding that the assessment against Bryson-Robison Corporation for the year 1917, made March 21, 1924, was null and void.
[57]

11. The Board erred in holding that the assessment against the corporation for the year 1918, made September 1, 1925, was null and void.

12. The Board erred in failing to find that by reason of his execution of the waivers of February 12, 1923 and January 2, 1924, respondent secured a postponement to a time beyond the period of limitation except as extended by said waivers, of the assessment and collection of additional income and profits taxes due from Bryson-Robison Corporation for the years 1917 and 1918.

13. The Board erred in failing to find that by reason of his execution of the waivers of February 12, 1923 and January 2, 1924, respondent secured a consideration of his application for special assessment of the income and profits taxes of Bryson-Robison Corporation for the years 1917 and 1918, under the provisions of Section 210, Revenue Act of 1917, and Sections 327 and 328 of the Revenue Act of 1918.

14. The Board erred in failing to find that by reason of his execution of the waivers of February 12, 1923 and January 2, 1924, respondent secured consideration of his claims for abatement of the additional income and profits taxes assessed against Bryson-Robison Corporation for the year 1917, and secured an allowance of said claims to the extent of \$3,033.44.

15. The Board erred in failing to hold that respondent was estopped to deny the validity of the waivers of February 12, 1923 and January 2, 1924.

WHEREFORE, the Commissioner petitions that the decision of the Board of Tax Appeals be reviewed by the United States Circuit Court of Appeals for the Ninth Circuit, that a transcript of the record be prepared in accordance with law and with the rules of said Court and transmitted to the [58] clerk of said Court for filing, and that appropriate action be taken to the end that the errors complained of may be reviewed and corrected by said Court.

(Sgd.) SEWALL KEY

Special Assistant to the
Attorney General.

(Sgd.) C. M. CHAREST

General Counsel,
Bureau of Internal Revenue.

Of Counsel:

(Sgd.) ELDEN McFARLAND

Special Attorney,
Bureau of Internal Revenue.

United States of America,
District of Columbia—ss.

C. M. Charest, being duly sworn, says that he is General Counsel of the Bureau of Internal Revenue, and as such is duly authorized to verify the foregoing petition for review; that he has read said petition and is familiar with the contents thereof; that said petition is true of his own knowledge except as to the matters therein alleged on information and belief, and as to those matters he believes it to be true.

(Sgd.) C. M. CHAREST

Subscribed and sworn to before me this 19 day
of April, A. D. 1933.

(Sgd.) MARCELLETE M. TAYLOR
Notary Public.

My commission expires Mar. 31, 1935.

[Endorsed]: United States Board of Tax Appeals.
Filed Apr. 19, 1933. [59]

[Title of Court and Cause.]

Docket No. 22,255

NOTICE OF FILING PETITION FOR
REVIEW.

To:

Herbert C. Bryson, Esq.,
312-13 Drumheller Bldg.,
Walla Walla, Washington.

You are hereby notified that the Commissioner of
Internal Revenue did, on the 19th day of April,

1933, file with the Clerk of the United States Board of Tax Appeals, at Washington, D. C., a petition for review by the United States Circuit Court of Appeals for the Ninth Circuit, of the decision of the Board heretofore rendered in the above-entitled case. A copy of the petition for review and the assignments of error as filed is hereto attached and served upon you.

Dated this 19th day of April, 1933.

(Sgd.) C. M. CHAREST,

General Counsel, Bureau of Internal Revenue.

Personal service of the above and foregoing notice, together with a copy of the petition for review and assignments of errors mentioned therein, is hereby acknowledged this 25 day of April, 1933.

(Sgd) HERBERT C. BRYSON,

Attorney for respondent on review.

[Endorsed]: United States Board of Tax Appeals.
Filed May 4, 1933. [60]

[Title of Court and Cause.]

Docket No. 22,255

NOTICE OF FILING PETITION
FOR REVIEW.

To:

Mr. Elmer D. Bryson,

605 Boyer Avenue,

Walla Walla, Washington.

You are hereby notified that the Commissioner of Internal Revenue did, on the 19th day of April, 1933,

file with the Clerk of the United States Board of Tax Appeals, at Washington, D. C., a petition for review by the United States Circuit Court of Appeals for the Ninth Circuit, of the decision of the Board heretofore rendered in the above-entitled case. A copy of the petition for review and the assignments of error as filed is hereto attached and served upon you.

Dated this 19th day of April, 1933.

(Sgd.) C. M. CHAREST,

General Counsel, Bureau of Internal Revenue.

Personal service of the above and foregoing notice, together with a copy of the petition for review and assignments of errors mentioned therein, is hereby acknowledged this 25 day of April, 1933.

(Sgd) ELMER D. BRYSON,

Respondent on Review.

[Endorsed]: United States Board of Tax Appeals. Filed May 4, 1934. [61]

[Title of Court and Cause.]

B. T. A. Docket No. 22,255

STATEMENT OF EVIDENCE.

The following is a statement of evidence in narrative form in the above-entitled cause. This cause came on for hearing before the Honorable Eugene Black, Member of the United States Board of Tax Appeals, on June 2, 1930, at Spokane, Washington. Herbert C. Bryson, Esq., appeared for the respondent on review and C. M. Charest, General Counsel,

Bureau of Internal Revenue, and Elden McFarland, Special Attorney, Bureau of Internal Revenue, appeared for the petitioner on review. The cause was consolidated for hearing with another then pending before the United States Board of Tax Appeals, entitled Lester L. Robison, petitioner, v. Commissioner of Internal Revenue, and numbered Docket No. 22,184 and in which John F. Watson, Esq., appeared for petitioner Robison.

Petitioner on review offered in evidence the income and profits tax return of Bryson-Robison Corporation for the calendar year 1919. The return was received in evidence and was marked Exhibit "A".

Petitioner on review then offered in evidence certified copies of the assessment lists assessing additional income and profits taxes against the Bryson-Robison Corporation for the years 1917, 1918 and 1919, respectively. They were received in evidence and were marked Exhibits "B", "C" and "D", respectively. [62]

Petitioner on review then called

W. R. LARSON

as a witness who, first having been duly sworn, testified as follows:

Redirect Examination.

My name is Wallace R. Larson and my official position is that of Deputy Collector of Internal Revenue. As such Deputy Collector of Internal Revenue I have examined the records of the Collector of Internal Revenue at Tacoma and particularly the records of the account of the Bryson-

(Testimony of W. R. Larson.)

Robison Corporation in that office for the calendar years 1917, 1918 and 1919. I believe that the assessment certificates that have been received in evidence as Exhibits "B", "C" and "D" are the ones that I have examined. The additional tax assessed as shown by those assessment certificates have not been satisfied. The only difference is in part of it, part of one of these has been abated. That is Exhibit "B". Part of the additional tax set up for the year 1917, the total amount set up was \$5,896.86, and this additional tax set up, and of that amount, \$3,033.44 was abated, credited against the account, leaving a balance of \$2,863.42 for that year.

There was no cross-examination and the witness was excused.

LESTER L. ROBISON

was called as a witness for and on behalf of the petitioner on review, and after having been duly sworn was examined and testified as follows:

Direct Examination.

My name is Lester L. Robison and I live at Walla Walla. My business is that of farmer and stockman. I am the petitioner in one of these cases. I was a member of the corporation known as the Bryson-Robison Corporation, the taxpayer in this case. I was a member of that corporation prior to June, 1919. Mr. Bryson and myself were the stockholders of that corporation. The approximate holding of each, that is the proportion each of us owned in the corporation was one-half. Sometime in June, 1919, I sold out to Mr. Bryson for the sum of \$70,000.00.

(Testimony of Lester L. Robison.)

Mr. Bryson took the [63] assets of the corporation and has been holding them ever since. The corporation had no assets after that time,—the time I sold out to Mr. Bryson and the corporation has no assets now.

By Mr. McFarland:

“Q. How about the liabilities of the corporation, were they very much at the time of the transfer of those assets?

“A. I do not know of any other than just Mr. Bryson gave me, to take care of the liabilities.

“Q. He gave you what?

“A. He gave me \$70,000; he was to take care of what liabilities we had.

* * * * *

“Q. Did you sell your interest in the corporation to Mr. Bryson or did the corporation transfer the assets to you and Mr. Bryson and then you sold?

“A. No, I sold to Mr. Bryson, * * * and he took the assets of the corporation; that is the way it was.”

Cross Examination.

(By Mr. Watson):

I transferred to Mr. Bryson my interest in the corporation, and its property and I joined the corporation in conveyancing to Mr. Bryson. He (Mr. Bryson) paid \$70,000.00 for that to me. Some of

(Testimony of Lester L. Robison.)

the assets of the corporation were transferred to me before I transferred to Mr. Bryson. In this transaction there was a transfer from the corporation to Mr. Bryson. I think, but I do not hardly remember, that the assets that went to Mr. Bryson never went through me but from the corporation to him. He paid me for my interest but I do not remember just exactly how the assets were handled. My wife had one share of stock. I think Mrs. Bryson had a share of stock too. I held four hundred and ninety-nine shares and Mrs. Robinson one. I do not remember whether Mr. Herbert Bryson had any of [64] the stock or not. After this transfer to Mr. Bryson I had nothing to do with the corporation; I quit immediately. I did not attend any corporate meetings or undertake to represent the corporation in any way. In other words, I severed all connection with the corporation and its business and assets. I considered I was out of it.

“THE MEMBER: Mr. Robison was this transfer evidenced by an instrument in writing, this transaction between you and Mr. Bryson?

“THE WITNESS: Yes, I got—there was an agreement between us but I have not the agreement; I have lost it.

“THE MEMBER: You do not have it with you?

“THE WITNESS: No, I have not had it for some time. When this came up I tried to find it, but I have never been able to find it.”

(Testimony of Lester L. Robison.)

The respondent on review then offered in evidence a certified copy of the conveyance made to Mr. Bryson, signed by the Bryson-Robison Corporation and by L. L. Robison and his wife. Also a certified copy of the mortgage for \$70,000.00 payable to L. L. Robison who is Lester L. Robison, covering the property that is involved and signed by the petitioner Bryson and his wife. These were received in evidence as Exhibits 1 and 2.

ELMER D. BRYSON

was called as a witness for and on behalf of the petitioner on review and after having been first duly sworn, was examined and testified as follows:

Direct Examination

My name is Elmer D. Bryson and I live at Walla Walla. My business is that of sheep raiser. I was a member of the Bryson-Robison Corporation, the taxpayer in these cases, in June of 1919. In June, 1919, I took over all of the business. I bought Mr. Robison's share in the business and [65] just simply gave him \$70,000.00 for his half of the business and then I took over the business myself as an individual. We had started dissolution proceedings prior to this but had not finished.

Cross Examination.

(By Mr. Watson):

There had not been any distribution of the prop-

(Testimony of Elmer D. Bryson.)

erty from the corporation to the individuals before that time. I just took over Mr. Robison's interest in the corporate business and assets. We treated it practically as a partnership business rather than a corporation. We kept no formal books and records, but it was, in fact, a corporation.

“THE MEMBER: Were the assets you took over personally described in the deed of conveyance that has been offered here?”

“THE WITNESS: The real estate was but not the personal property.

“MR. WATSON: But you did take over the personal property?”

“THE WITNESS: Yes, I took over everything.”

The witness was then excused.

Thereupon the respondent on review, to maintain the material averments of their petition, introduced the following proof:

W. F. CROWE,

was called as a witness for and on behalf of the respondent on review and after first being duly sworn was examined and testified as follows:

Direct Examination.

(By Mr. Watson):

My name is W. F. Crowe and I am an attorney at Walla Walla, Washington, and have been at all times during the past ten years or more, or since 1898. I was an attorney for the Bryson-Robison

(Testimony of W. F. Crowe.)

Corporation at all times I believe after it was formed, and while, early in 1917 when it had trouble with the Forest Reserve at the time, and I looked after its income tax and business [66] from that time on to its disincorporation and brought suit for its dissolution. The transfer of the business of the corporation—the transfer of June, 1919—was originally made pro forma in order to comply with Government Regulations. There is some information as a matter of record, because they were never reconveyed; that is, they were reconveyed to the corporation, but the reconveyance was never placed of record so that the apparent record title to the property was in Mr. Robison instead of in the corporation. That is as to part of property, half of the property and too, the transfer as originally made was not merely of the land but of the sheep and all of the assets, but they continued to keep them by the corporation, to treat them as the corporation's property and make their income taxes and raise income and they are the expenses from the corporation. All of the checks of the corporation passed through my hands ultimately after they had been paid for income tax. The real owner was functioning at the time of the Bryson-Robison deal and at the time of the deal before the transfer was actually made the resolutions were adopted. I have the date of it at the time, and I can refresh my memory. On April 22nd, 1919, resolutions to disincorporate were adopted, when the deal was closed. The assets and

(Testimony of W. F. Crowe.)

business were transferred from the corporation to Elmer D. Bryson, including Mr. Robison's stock, which was indorsed and turned over, also the stock of his wife.

(By Mr. Bryson, attorney for the respondent on review):

"Q. Mr. Crowe, you were in charge of the dissolution proceedings?

"A. Yes, sir.

"Q. Aren't you mistaken as to the actual corporate stock certificates being assigned and transferred?

"A. Of course, I would not remember, just without referring to notes whether they actually had or not, but I prepared affidavits at that time showing that they were actually transferred."

[67]

I started the dissolution proceedings of the corporation having for its purpose the dissolution of this corporation at that time. The occasion for transferring the corporate stock when the corporation was dissolved was so that if any assets were in the hands of the corporation instead of being distributed to Mr. Robison, they were distributed to Mr. Bryson pursuant to his purchase. I think I prepared those dates. I do not believe the bill was actually made in my presence, but the assets were not merely those known, but all of the assets of the corporation. I base this upon the memorandum Mr. Bryson prepared and filed in the Revenue Department at that

(Testimony of W. F. Crowe.)

time and certain affidavits that he was the owner of all of the stock and all the assets. The whole object and purpose of all of this transaction was that Mr. Robison sell his interest in the Bryson-Robison Corporation and all of his assets and that Elmer D. Bryson purchase them for a price or consideration of \$70,000.00 which was to be evidenced by a real estate mortgage. The deed was given by the corporation and Lester L. Robison and wife to Elmer D. Bryson, conveying all of the corporate real estate, and there was the transfer of all of the personal property of the corporation to Elmer D. Bryson. Elmer D. Bryson executed a mortgage for \$70,000 and I was then and there instructed to dissolve the corporation. At that time I started dissolution and Mr. Bryson undertook the expense of dissolution.

(At this point there was introduced in evidence what purported to be certified copies of the dissolution proceedings in the Superior Court of Walla Walla County, Washington. Said document so offered was received in evidence and marked Exhibit No. 3)

Direct Examination continued by Mr. Watson, attorney for respondent on review: [68]

I think I have already explained why Mr. Robison and his wife joined the corporation in this deed to Mr. Bryson. The record title to part of the land stood in the name of Lester L. Robison, and through a former deed made from the corporation to him in 1917, in the fall of 1917. I think that on June 4,

(Testimony of W. F. Crowe.)

1919 I had in my possession a deed from Mr. Robison and his wife conveying back to the corporation all of his property.

(Direct Examination by Mr. Bryson, attorney for respondent on review):

“Q. But there was other corporation real estate aside from that covered by this deed from Bryson and Robison and wife, back to the corporation which stood in the name of the corporation was there not?”

It is possible that some small tracts might have been acquired. Half of the real estate that had been owned or stood of record in the name of Mr. Bryson, but the corporation deed ran not only to that land which stood in his name, not only that land which stood in the name of Mr. Robison, but ran also to the land which stood in the name of Mr. Bryson and was a confirmation to that extent. After this deed of March 4, 1917, the corporation acquired some 2,000 or 2,400 acres of land, title of which was taken in the name of the corporation itself and stood in the name of the corporation itself at the time of this deed too. The deed that the corporation made covered all of the land if I remember correctly, that belonged to the Bryson-Robison Corporation, either at its beginning or afterwards, acquired up to the time of dissolution.

(Testimony of W. F. Crowe.)

By Mr. McFarland, attorney for petitioner on review:

“I would like to make an objection. The witness says that this included all of the land that was owned by the corporation up to its dissolution. Now, that assumes a fact which is not in evidence, that is that the dissolution occurred at a time prior to the time of the deed, which I think is not the case.”

The WITNESS: No, that would bear the wrong inference, and if I so stated I would like to correct my testimony. [69]

“Mr. McFARLAND: That is the only point I make on that.”

The witness continuing stated: It included all of the land which was involved in the reconveyance by the corporation to the individual stockholders for the purpose of complying with the permit regulation in the Forest Reserve of land which it afterwards acquired. That is, after the passing of this resolution any further lands were acquired in the name of the corporation so that it actually did include all. I did not intend to say that the corporation did not acquire in the corporate name deed to any real estate in the corporate name after the date of this deed from the Bryson-Robison Corporation to Mr. Bryson and Mr. Robison. I stated that all they acquired after that date was also included in the corporation deed.

(Testimony of W. F. Crowe.)

Cross Examination.

(By Mr. McFarland):

The matter of the final dissolution was in order for hearing at any time for Mr. Bryson's convenience, the order of dissolution could be entered at the time and I told him what the expenses involved with the final closing of the case would be and the matter was not particularly dropped. The corporation just became dissolved by operation of law, by his failure to come in and make the necessary showing to the Court which could have been done. I think Exhibit 3 is the entire final record in the case. I have a copy of everything filed in the Court and I have my case file before me. There is in it no order of dissolution.

(At this point there was offered in evidence the official certificate from the Secretary of State of the State of Washington, under the seal of his office concerning the dissolution of the Bryson-Robison Corporation. This document was received in evidence and marked Exhibit No. 4). [70]

ELMER D. BRYSON,

was called as a witness for and on behalf of the respondent on review and having been first duly sworn was examined and testified as follows:

Direct Examination.

By Mr. Bryson (counsel for respondent on review):

"Q. You were an officer of the Bryson-Robison Corporation through its corporate existence,

(Testimony of Elmer D. Bryson.)

were you not?

“A. Yes, sir.

“Q. I will ask you if at any time, acting for yourself or with authority of the corporation you have ever signed any waiver of assessment or distraint or collection as internal revenue for the corporation?

“A. I signed a waiver with the express understanding I had no authority to sign.

* * * * *

Mr. BRYSON: I will now ask counsel for the Commissioner to produce the waiver that is referred to by the witness in the present testimony.

By Mr. Bryson:

“Q. I will ask you to examine this document captioned income tax and profits tax waiver and ask you if that is your signature?

“A. It is.”

(At this point there was offered in evidence the said waiver which was received in evidence and marked Exhibit No. 5).

At the time I executed this waiver I had no authority from the Bryson-Robison Corporation to execute such waiver. I did not discuss the execution of this or any waiver with Mr. Robison or with any other stockholder of the Bryson-Robison Corporation at the time I signed this. At the time of signing the waiver I informed the Commissioner of Internal Revenue as to my lack of authority to

(Testimony of Elmer D. Bryson.)

sign it. That notice was contained in writing in a letter. [71]

(At this point the letter which accompanied the waiver to the Commissioner was offered and received in evidence and marked Exhibit 6.)

I have never signed any waiver of assessment or collection or distraint for the collection of income taxes in my own behalf for the years 1917, 1918 or 1919. The only record or knowledge of any assessment of tax ever having been served upon me personally as a transferee of the Bryson-Robison Corporation prior to the institution of this proceeding before this Board is that notice. I do not know whether you would call that really an assessment or not. That was November 3, 1926, at the time we started this proceeding. That is the first I have any memory of that was served on me personally. That was the first demand made on me as transferee. As I understand an assessment I have no record or memory of any assessment against the Bryson-Robison Corporation having been served upon me as an officer of the corporation. To my knowledge I never received anything as an officer of the corporation or individually from the Commissioner of Internal Revenue or any of its officers or agents of the purport and character of Exhibits B, C, and D. I never received anything of that sort for either the years 1917, 1918 or 1919, either in my personal capacity or as an officer of the corporation.

By Mr. Bryson:

“Q. Have you ever received any notice of as-

(Testimony of Elmer D. Bryson.)

assessment as transferee of the Bryson-Robison Corporation until this notice of November 3, 1926, on which this action is predicated?

“A. Notice to apply for hearing before the Appeal Board; I do not know whether it is an assessment.

“Q. Well, that is the notice on which this action is based.

“A. That is the only one; I remember that.

“Q. Did you have any settlement or adjustment with the Commissioner of Internal Revenue or his proper officers for the [72] *for the* year 1919, including the Bryson-Robison Corporation and your individual transactions on the subsequent years of 1920 and 1921?

“A. Yes, I had a report, acceptance of the accounts for those years.

“Q. I hand you an official offer of adjustment from the Commissioner's office, and I will ask you if you received that in due course of mail?

“A. Yes, I received it.”

(At this point the above document was offered and received in evidence and marked Exhibit No. 7).

I do not remember if I made up this offer but they evidently accepted it. I do not remember—for it was too far back—if there was an agreed form or a typed form of acceptance or rejection. I think that I received from the Government this \$7.45 that was found as a refund, but I do not know. I could

(Testimony of Elmer D. Bryson.)

trace that up evidently. I am forty-nine years old and I have been following the business and think that I am acquainted with the values of grazing or ranch lands in western Walla Walla County, Washington. I commenced as an owner of a sheep business in that portion of the county and state in 1909. Before that I had a six year experience there. I thought that I was familiar with the ordinary reasonable value of the lands which belonged to the Bryson-Robison Corporation, whether the same stood in the name of the corporation or in the names of the individual stockholders. I do not know exactly but the real estate worth that was conveyed to me by the deed from the Bryson-Robison Corporation and L. L. Robison and wife was around \$55,000 or \$60,000. We paid \$40,000 for part and bought more, but it really cost very nearly that. In connection with the conclusion reached by the Revenue Agent in Exhibit 7 wherein the value of this particular real estate covered by this conveyance was fixed [73] at \$53,000.00 and some odd, I think that it was the fair and reasonable market value of that land in 1919 at the time of this conveyance. I commenced the sheep business in 1903 and I have had practical experience in the range sheep business but not in thoroughbreds. That is in breeding, raising and growing of sheep. I had no other business and I attended to my duties as Secretary of the Bryson-Robison Corporation completely. I devoted practically all of my time to the corporate business; I had no other business and no other con-

(Testimony of Elmer D. Bryson.)

nections. I think the character of the services rendered by me were reasonably worth \$5,000 a year. Mr. Robison and myself were practically the sole and entire owners of the business and he and I agreed between ourselves that salary to each of us was proper. At the time I bought out the corporation from Mr. Robison there were obligations of the corporation which I later on liquidated in addition to the \$70,000. Roughly—for my memory is poor—I know there were notes at the bank and they had some store bills and we had accounts that had to be settled. I could not give them—only roughly. I am not sure but I think I owed the bank \$17,000 or \$18,000. I had a current merchandise account and some of the herders' wages were due. The 1919 wool clip was stored in Boston. We each took one-half. There were two cars. We shipped one in Mr. Robison's name and one in mine. When the proceeds came Mr. Robison turned over his profits to me and this money was used to pay off the debts. I would say as to a reasonable salary to Mr. Robison for the years he was connected with the corporation that he ought to have been equally allowed. The question did not come up when we were preparing the income tax return for the corporation. We treated our business as a private partnership, and there was no money in the business and when it was sold over, no money to take out. [74]

By Mr. Watson (counsel for respondent on review):

“Q. Mr. Bryson, I call your attention to the

(Testimony of Elmer D. Bryson.)

income tax return of the corporation for 1917, and particularly to deduction 4(b) of expenses in the sum of \$32,492.60, and ask you whether or not any compensation to yourself or Mr. Robison was included in that item?

* * * * *

“A. I do not remember all of the items that far back naturally, but I think there was \$5,000 for myself, I do not think there was in Mr. Robison’s case.”

Cross Examination.

I know, as a matter of fact, that all the expenses of the corporation were shown by checks that were drawn on the bank. I think you will find that there was \$5,000.00 paid to me for the 1917 return—that is, the 1917 return which was made in 1918. I believe the \$5,000 for 1917 was paid to me in 1918. I think I have those checks with me—I am not sure if I have them all or not. I have not signed a waiver of the tax liabilities involved in this proceeding in my own behalf. That is my signature on the waiver—Exhibit 5—of January 2, 1924. I did not remember it. I see now what that is. It is as former Secretary. I signed that, but then it is because it was requested. I did not sign that paper in my own behalf. I signed it on behalf of the Commissioner—he asked for a waiver, and that is what I gave him, or that is what was sent to the Bryson-Robison Corporation.

By Mr. McFarland:

“Q. Now, in this waiver it says, ‘In pursuance of the provisions of sub-division D, Section

(Testimony of Elmer D. Bryson.)

215 of the Revenue Act of 1921, the Bryson-Robison Corporation of Walla Walla, Washington, and the Commissioner of Internal Revenue hereby consent to a determination assessment and collection of the amount of income and excess profits tax and war profits tax due under any return made by or on behalf of said corporation for the years 1917, 1918 and so forth, signed by yourself, former Secretary of the Bryson-Robison Corporation, taxpayer. Now, you say that was not signed on behalf of the corporation and was not signed on your own behalf either?

“A. I signed it because it was requested.
[75]

“Q. I did not ask you why it was signed, but I asked you on whose behalf it was signed?

“Mr. WATSON: If your Honor please, the instrument speaks for itself.

“Mr. McFARLAND: No, I am simply asking the same question counsel asked in his direct examination.

* * * * *

By Mr. McFarland:

“Q. I will show you another waiver which counsel has heretofore examined, dated the 12th of February, 1923, and ask you if that signature Elmer D. Bryson, is your signature.

“A. Yes, that is my signature.”

(At this point there was offered and received in evidence the 1917 waiver of the Bryson-Robison

(Testimony of Elmer D. Bryson.)

Corporation, which document was marked Exhibit "E" and made a part of the record.)

"Mr. McFARLAND: Now if your Honor please, for the purpose of the record * * * I would like to read a part of that into the record:

"The MEMBER: Very well.

"February 12, 1923.

"Income and profits tax waiver.

"In pursuance of the provisions of subparagraph (d) Section 250, Revenue Act of 1921, Elmer D. Bryson of Walla Walla, Washington, and the Commissioner of Internal Revenue hereby consent to a determination, assessment and collection of the amount of any excess profits or war profits taxes due under any return made by or on behalf of said Bryson-Robison Corporation for the year 1917 under the Revenue Act of 1921, or any prior income or excess profits, war profits acts", and so forth.

"This waiver will be effective only one year from date of signing. Signed Elmer D. Bryson as former Secretary, Bryson-Robison Corporation, and signed D. H. Blair, Commissioner." There is a portion referring to certain statutes which I have omitted.

"Now, was that also given pursuant to a request from the Commissioner?

"A. It was; I did not remember it." [76]

That is my signature on the letter dated Walla Walla, Washington, February 7, 1924, addressed to

(Testimony of Elmer D. Bryson.)

the Commissioner of Internal Revenue, Washington, D. C., and signed Bryson-Robison Corporation by Elmer D. Bryson, formerly Secretary.

(At this point the above-described letter was offered and received in evidence, marked Exhibit "F" and made a part of this record).

"By Mr. McFARLAND: I offer in evidence the protest dated June 30, 1924, signed by Bryson-Robison Corporation, and Elmer D. Bryson, former Secretary * * * That is your signature, isn't it, Mr. Bryson?"

"A. Yes, sir, that is my signature."

(At this point the above-described document was offered and received in evidence, marked Exhibit "G" and made a part of the record).

I received the original of the copy of the letter dated January 27, 1924 addressed to Bryson-Robison Corporation, acknowledging receipt of my protest of January 2, 1924. I presume I received it, I do not know where the original is.

"By Mr. McFARLAND: Now, your Honor, * * * here is a claim for abatement which was dated the 5th of April, 1924, it says, * * * 'Deponent being duly sworn, according to law deposes and says that this statement is made on behalf of the above-named taxpayer.' Now the taxpayer's name is the Bryson-Robison Corporation, and it is signed Elmer D. Bryson, former Secretary, Bryson-Robison Corporation, Incorporated. I offer in evidence claim for

(Testimony of Elmer D. Bryson.)

abatement of taxes signed by this taxpayer at this time.”

(At this point the above-described document was offered and received in evidence, marked Exhibit “H” and made a part of the record.)

“Mr. McFARLAND: I offer another claim for abatement dated the 18th of April, 1924, the taxpayer named being the Bryson-Robison Corporation, Walla Walla, Washington, signed Elmer D. Bryson, former Secretary Bryson-Robison Corporation in which it states, ‘This deponent being duly sworn according to law deposes and says, this statement is made on behalf of the taxpayer named.’ ”

“Mr. BRYSON: I object to this being read in the record before the Exhibit is offered, or before we can offer an objection to it.”

“Mr. McFARLAND: I will withdraw that part that has been read.” [77]

(At this point the above-described document was offered and received in evidence, marked Exhibit “I” and made a part of the record.)

At the time of the transfer of the assets of the corporation, in June 1919 to me, Mr. Robison was President and I was Secretary of the corporation. In June, 1919, we had started dissolution proceedings. We really did not do much business as a corporation. I think we understood it more like a partnership. I bought out Mr. Robison. I just took possession of everything, that was all there

(Testimony of Elmer D. Bryson.)

was to it. It all occurred at the same time; we ceased to do business. After Mr. Robison got out of the corporation there was no corporation business done after I bought him out. After I bought him out, there was no change in officers at any time. We ceased to do business is all I can say, perhaps did not do it legally as a corporation should. That is my handwriting in Exhibit A—"Elmer C. Bryson, sole remaining officer"—but this is not (indicating). I do not know if that was in there when I signed it. I never saw that before. It is my signature, there is no question about that, but this is not my handwriting (indicating). That was signed February 24, 1920 and I presume that I signed that before Mr. Crowe. That other handwriting in the Schedule B is not my handwriting. "The officers wound up the property and turned back any property"—that is Mr. Crowe's handwriting, I guess. I think Mr. Crowe made out that return for me—he made most of our returns. I do not know what is meant by "sole remaining stockholder"—I did not put that on there—that is not my handwriting. I do not remember as to it, but it is my signature. It might have been written at that time, but I do not remember as to that. We have what books and records there are, but very little legal procedure is shown. I just took possession of the land and the property and that is all there was to it. There was no transfer further than that. [78]

"Q. Now, you took possession of every-

(Testimony of Elmer D. Bryson.)

thing at that time, transfer of the property and carried on the business?

“A. We were in charge of it prior. Of course, Mr. Robison was interested with me, naturally.”

“Q. Why didn't Mr. Robison answer some of his correspondence instead of you?

“A. Well, I made out all of the income tax returns and I did most of the business while we were together, and as far as that was, I was Secretary and Treasurer.”

“Q. Wasn't it because you felt that you were the sole person that was responsible, if anybody was responsible, for the affairs of the corporation?

“A. Well, I did settle all bills that were due the corporation. I took over everything and gave him \$70,000 for it.”

Redirect Examination.

(By Mr. Bryson, counsel for respondent on re-view):

The Robison corporate stock never was indorsed and delivered to me at all. We made an effort to locate the original stock book of the corporation; Mr. Crowe was unable to locate it, he said. Mr. Crowe had practically all of the corporate records when we ceased business in 1919, and he had all of those until quite recently. We were unable to locate the original stock book. I have my corporate stock somewhere among my papers here. After

(Testimony of Elmer D. Bryson.)

the transaction between myself and Mr. Robison in June, 1919, he ceased to have anything further to do with the corporation affairs. During the years we actively operated, I was manager in active charge with his consent and approval. The detailed work fell on my shoulders. I do not mean to say that he did not do any active work, but the management and secretary work, I took it. But insofar as looking after the property and helping to shear sheep and all of that, Mr. Robison helped, up until June 1919. Of course I did most of the book-keeping and most of the check paying as far as that was concerned, what little making out of checks there was. [79]

The witness was then excused.

LESTER L. ROBISON

one of the petitioners herein, having been previously sworn, was recalled and testified further as follows:

Direct Examination.

I have never seen Exhibit 5 before. I first learned of its existence about the time they were going to levy an individual assessment on my property. I do not know if this appeal had been begun or not at that time. I suppose Mr. Bryson had this correspondence with them, but I did not know anything about it until they were going to put an assessment or levy on my individual property. That is when I appealed to the Board. That was when I

(Testimony of Lester L. Robison.)

got a deficiency letter, in the fall of 1926 sometime. That was the first I knew of any such waiver as this ever having been made. I never at any time authorized Mr. Bryson or anyone else to make or execute any waiver. Right now is the first time I ever saw Exhibit E. I did not at any time authorize the execution of that waiver. I do not know when I first knew of its existence—unless it was either at the time they were going to assess this levy and I took it up with the Board of Tax Appeals or now. I never saw that until today.

“Q. Well, now, then, let us get clear. You say that you heard about that when, at the time you took your appeal?

“A. I heard that he had signed some kind of a waiver whether it is this waiver or not I do not know. He signed some kind of a waiver to the Government, but I do not know whether it was this one or which.

“Q. As far as these waivers are concerned you have not had anything to do with them or authorized them in any way?

“A. No, sir.”

I never at any time ever had any notice except the notice in that deficiency letter of November 23, 1926, of any assessment against the cor- [80] poration or against myself. I did not have anything to do with this correspondence. I was not consulted about the matter any. I did not have anything to do with those claims in abatement. I knew prac-

(Testimony of Lester L. Robison.)

tically nothing about the fact that there was anything in controversy, until I got that letter of assessment. During the time of the existence of the Bryson-Robison Corporation I was President of the corporation all of the time. There never was any change of officers in the corporation during the period of its existence, to my knowledge. I do not know of any time that the corporation authorized Elmer D. Bryson to execute any tax waiver as binding or otherwise on the corporation or any of its stockholders. As President of the corporation, had such been done I would have known of it.

By Mr. WATSON:

“Q. You have stated you were President of the corporation during its existence. Were you President of the corporation after you sold out to Mr. Bryson?

“A. I thought it was all over with and I just stepped out, never had anything more of it.”

Whereupon,

FRANK JOHNSON,

was called as a witness for and on behalf of the respondent on review, and after having been first duly sworn, was examined and testified as follows:

Direct Examination.

(By Mr. Watson:)

My name is Frank Johnson. I am Internal Rev-

(Testimony of Frank Johnson.)

enue Agent stationed at Walla Walla, and as such agent I made an examination of the income and profits tax liabilities of the Bryson-Robison Corporation for the years 1917, 1918 and 1919. I do not remember the date I made that examination, but it has been stated on the report. At the time of my examination I examined whatever books and records of the corporation there were. As shown by my examination of the books and records for the year 1917, there [81] were no salaries paid in 1917.

“Q. For the year 1917?

“A. None paid in 1919.”

If it is shown in my report that \$2500 for the year 1919 in the report made out in 1920 paid to Mr. Elmer D. Bryson, which constituted six months' salary at \$5,000 a year, that would be it. My testimony is entirely from memory without any immediate refreshing of my memory. My report shows that salaries were paid in 1918, and it was allowed simply as a matter of equity. My report shows that.

“Mr. McFARLAND: I think I will get your report so that we will have your memory refreshed, so that we won't have any guess work there.”

Cross Examination

That document right there is that report.

By Mr. McFarland:

“Q. Now, for the purpose of refreshing your

(Testimony of Frank Johnson.)

recollection, will you look at such portions of that report as may be necessary to refresh your recollection and state what salaries were paid during the years involved here, as shown by the books and records.

Mr. WATSON: If the Court, please, we admit that amount assessed. We claim the deduction for three years was disallowed. We do not claim that the salaries were actually in kind disbursed during 1918. In 1917 they had no income.

The MEMBER: It is admitted that there were no salaries actually paid in 1917, your contention being they incurred liability and to that extent did not pay it because they made no sales.

Mr. BRYSON: Not in that identical form.

Mr. McFARLAND: Does counsel contend they were ever paid?

Mr. BRYSON: That they were ever paid?

Mr. McFARLAND: Paid, yes.

Mr. BRYSON: Yes, they were paid when Elmer D. Bryson bought the [82] assets of the corporation and there was due him \$2500. He did not take it out of one pocket and put it in another. It was paid.

The MEMBER: Well, I suppose it is admitted without the necessity of going any further with this witness, that no salary was actually paid in 1917 or 1919.

Mr. McFARLAND: Or 1919.

(Testimony of Frank Johnson.)

The MEMBER: In money, that is admitted, isn't it?"

The books do not show any accrual of salaries. They did not keep any formal books of account, as a matter of fact they did not have any books of account—just long sheets of paper. They had no formal books of account.

Whereupon,

LESTER L. ROBISON,

one of the petitioners herein, having been previously duly sworn, was recalled to the stand and further examined and testified as follows:

I am forty-six years old. I now own about 8,000 acres of land in Walla Walla County. I have been in the farming and stock business every since I have been a boy, but actually engaged myself since 1907. I am familiar with the land that was held in the individual names for the Bryson-Robison Corporation. I know the fair and reasonable value of this land in 1917 and I can explain it in my own way. We purchased that original land for \$40,000.00 which was very reasonable. I owned some land in that neighborhood before, we gave Mr. Bryson \$40,000 for it. I cannot say how many acres or how many sections there were. I could ask Mr. Bryson; he could tell us. Yes, 10,360 is right. We purchased some more land in 1918. Values went up. We purchased it the land the corporation owned during the year 1917 in

(Testimony of Lester L. Robison.)

1916 for right at \$4.00 an acre. I think it advanced in 1917 at least a dollar an acre, and in 1918 maybe \$2.00 an acre. There was commencing in 1918 and during the War, the last part of the War there land increased awful high and they were jumping right along in 1919, but still [83] that did not change it. So that in 1917 the corporation owned lands including this held by the individuals for it of the value of \$50,000.00. And in 1919 or 1918 it had increased easily another dollar. As to its worth in 1919, I think land no better than that land, in different localities in our county sold for as high as \$7 or \$8 an acre for grazing land. It was pretty hard to keep track of values at that time. We could have readily sold it for at least \$60,000 in 1919. I took a first mortgage on the real estate alone for \$70,000.00 for which you sold out, and I considered myself well secured. It was pretty hard to set values of land at that time because they were all jumping up pretty high. I mean by value what it would bring.

“The MEMBER: Was this land purchased by the corporation or by you gentlemen as individuals?

“The WITNESS: I think we purchased it as individuals but with the understanding it would be the corporation. The corporation was not formed at first.

“The MEMBER: I understood you to say you traded in into the corporation for capital stock?

(Testimony of Lester L. Robison.)

“The WITNESS: Yes.

* * * * *

“Mr. BRYSON: Perhaps I should explain that to your Honor as to what was done. I personally owned 10,000 acres that was sold to the individuals at the time and closed up the deal and the corporation was formed. The individuals gave me their check and the land was deeded to the corporation.

“The MEMBER: At what price?

“Mr. BRYSON: They paid me \$40,000 and there were other lands that went into the corporate property at that time. Elmer D. Bryson owned other lands there and there were other lands that went into it in addition to the 10,300 acres I sold them, and they paid me cash for the 10,000 acres. * * * That was in the fall of 1916.

“The MEMBER: What I was trying to get at was the allegation of \$45,000 worth of land was excluded from invested capital, and it is now admitted that land should have been included and it was to get testimony to show the value. [84]

“Mr. BRYSON: That was carried in these controversies at a value of \$45,000, because it was listed as that, and excluded as that.”

Witness excused.

The foregoing evidence, together with the Exhibits referred to, is all of the material evidence adduced at the hearing before the Board of Tax Appeals, and the same is approved by C. M. Charest, General Counsel, Bureau of Internal Revenue, as attorney for the Commissioner of Internal Revenue.

(Signed) C. M. CHAREST

General Counsel,

Bureau of Internal Revenue.

The foregoing evidence, together with the Exhibits referred to, is all of the material evidence adduced at the hearing before the Board of Tax Appeals, and the same is approved by the undersigned as attorney for respondent on review.

.....
.....
The foregoing is all of the material evidence adduced at the hearing, and in order that the same may be preserved and made a part of this record, this statement of evidence is duly approved and settled this 25th day of July, A. D., 1933.

(Sgd.) EUGENE BLACK

Member,

United States Board of Tax Appeals.

[Endorsed]: United States Board of Tax Appeals.
Lodged Jun. 20, 1933.

[Endorsed]: United States Board of Tax Appeals.
Filed Jul. 25, 1933. [85]

2 REC'D - 61
MAR 15 1934
DIST. WASHINGTON

RETURN AUDITED

Form 1120-UNITED STATES INTERNAL REVENUE SERVICE

CORPORATION INCOME AND PROFITS TAX RETURN FOR CALENDAR YEAR 1919

Or for period begun _____, 19____, and ended _____, 19____

If the net income includes more than \$10,000 from Government contracts, contracts, grants, etc., prepare Form 1120-B, and file the same with this return.

(Print plainly) corporation's name and principal place of business)

Oryson-Robinson Corp

Walla Walla

Wash (Name)

(Street and number or rural route)

(Post office and State)

402204

(DO NOT WRITE IN THIS SPACE)

Examined by

Audited by

FIRST PAYMENT

CASH

CHECK

M.O.

CERT. OF IND.

Cash
15 1920
2.50
2.50

IF RETURN IS FOR CALENDAR YEAR 1919 FILE IT WITH THE COLLECTOR OF INTERNAL REVENUE FOR YOUR DISTRICT ON OR BEFORE MARCH 15, 1920

IF FOR A PERIOD OTHER THAN A CALENDAR YEAR THE RETURN SHOULD BE FILED ON OR BEFORE THE 15TH DAY OF THE THIRD MONTH FOLLOWING THE CLOSE OF SUCH PERIOD

KIND OF BUSINESS _____ IS THIS A CONSOLIDATED RETURN?

SCHEDULE A-TAXABLE NET INCOME.

1. Gross receipts, less returns and allowances	2,750.00	2,750.00
2. Less cost of goods sold, repairs, and other items called for separately below		
3. Gross income from operations other than trading or manufacturing, less allowances		
4. Interest on U.S. Government bonds or its possessions and War Finance Corporation Bonds not exempt from Schedule A		
5. Income from other sources (from Schedule A)		
6. Rental (from Schedule A)		
7. Royalties		
8. Dividends and other income (from Schedule A)		
9. Dividends from foreign corporations (from Schedule A)		
10. Gross income from other sources, including any amount in respect of sale of capital assets or other property		
11. Total of items 1 through 10	2,750.00	2,750.00
12. Ordinary and necessary expenses (from Schedule A)		
13. Compensation of officers, directors, and other compensation (from Schedule A)		
14. Repairs (including labor, etc.) (from Schedule A)		
15. Interest (except on U.S. Government bonds or its possessions and War Finance Corporation Bonds) (from Schedule A)		
16. Taxes except Federal income, war-profits and excess-profits taxes, taxes which are a credit under Section 238, and taxes assessed against local benefits of a kind tending to increase the value of the property assessed		
17. Debts ascertained to be worthless and charged off within the taxable period (from Schedule A)		
18. Exhaustion, wear and tear (including obsolescence) (from Schedule A)		
19. Depletion: If claimed under the Collector Form D (minerals), Form E (coal), Form F (miscellaneous non-metals), Form O (oil and gas), or Form T (timber), fill in and file with return		
20. TOTAL OF ITEMS 12 TO 19	2,500.00	2,500.00
21. DIFFERENCE BETWEEN ITEMS 11 AND 20	250.00	250.00
22. Profit on sale of capital assets and miscellaneous investments, including the income from Schedule A		
23. Losses from the taxable period and not compensated for by insurance or otherwise. (Extend in last column adjustment of items 22 and 23.) (From Schedule A)		
24. Net income for taxable period exclusive of deductions for dividends and amortization (total of difference between items 21 and 23, the latter as extended)		
25. Dividends received from domestic corporations not personal service corporations, and dividends upon stock of foreign corporations taxable by the United States upon any portion of their net incomes		
26. Amortization of war facilities (from Schedule A) (extend total of items 25 and 26)		
27. NET INCOME FOR TAXABLE PERIOD (difference between items 24 and 26, the latter as extended—to be entered as item 5, Schedule D)	250.00	250.00

SCHEDULE B-INVESTED CAPITAL.

ITEM	AMOUNT
1. Capital, surplus, and undivided profits at beginning of taxable period as shown by books (from Schedule E, line 1)	100,000.00
2. Plus adjustments by way of additions (from Schedule F, line 7)	
3. TOTAL	
4. Less adjustments by way of deductions (from Schedule G, line 8)	
5. REMAINDER	
6. Plus or minus changes in invested capital during taxable period (from Schedule H)	
7. TOTAL (OR REMAINDER)	
8. Less deduction on account of inadmissible assets (from Schedule J)	
9. Invested capital for taxable period. (If return is for a period less than a full year, see paragraph 11, page 2 of Instructions)	100,000.00

SCHEDULE C-EXCESS-PROFITS CREDIT.

1. Eight per cent of invested capital for taxable period (Item 9 of Schedule B)	
2. Exemption (\$3,000) (except for foreign corporations)	3,000.00
3. Excess-Profits Credit (Item 1 plus Item 2). (If return is for a period less than a full year, see paragraph 11, page 2 of Instructions)	

SCHEDULE D-COMPUTATION OF TAXES.

1. BRACKET	2. AMOUNT OF NET INCOME (ITEM 27, SCHEDULE A) IN EACH BRACKET	3. EXCESS-PROFITS CREDIT (ITEM 3, SCHEDULE C)	4. BALANCE SUBJECT TO TAX	5. RATE	6. AMOUNT OF TAX
1. Not over 20% of invested capital	250.00	3,000.00		20%	
2. Over 20% of invested capital				40%	
3. Total computed under Section 301(b)					
4. Excess-Profits Tax, if computed under Sections 302, 303, 304(c) or 337 of Revenue Act of 1918					

INCOME TAX.

5. Net income for taxable period (Item 27, Schedule A)	250.00	250.00
6. Less: Interest on obligations of United States and War Finance Corporation Bonds, not exempt (Item 4, Schedule A)		
7. Excess-profits tax (Item 3 or 4, column 6, Schedule D) or		
8. Excess-profits and war-profits taxes (Item 16, Form 1120-B, income from Government contracts)		
9. Exemption, except for foreign corporations, \$2,000 unless return is for less than a year (see paragraph 11, page 2 of Instructions)	2,000.00	
10. Balance subject to income tax (Item 5, less Items 6, 7 (or 8), and 9)		
11. Tax of 10% on Item 10		
12. Total tax (Item 3, 4, or 8 plus Item 11)		
13. Less: Income tax paid or accrued to foreign countries or to possessions of the U.S. (See sections 238 and 240(c) of Revenue Act of 1918)		
14. Income tax withheld at the source in case of a foreign corporation not engaged in a trade or business within the U.S., and not having any office or place of business therein		
15. Balance (Item 12 minus Items 13 and 14)		250.00

Local Return

H1



SCHEDULE E.—CAPITAL, SURPLUS, AND
UNDIVIDED PROFITS AS SHOWN BY
BOOKS BEFORE ANY ADJUSTMENTS
ARE MADE THEREIN.

E4. Stock actually outstanding at the end of the preceding taxable period should be entered in this schedule to the extent that it is paid up. If stock or shares were issued at a nominal value or without par value the entries should reflect the amounts on the books in respect thereof at the close of the preceding taxable period.

E5. This item should include paid-in surplus per books at the end of the preceding taxable period. If any amount is claimed under Section 326 (a) (2) of the Revenue Act of 1918 or under Article 837 of Regulations 45, the amount claimed should be entered under Item 1, Schedule F, and not in this schedule.

E7. Reserves which represent allocations of surplus and were not accumulated through deductions made in computing net income as returned in previous years may, if properly explained, be entered on line 7. Such entries should be identified and if necessary reconciled with balance-sheet reserves.

E10. If the corporation had on hand at any time during the taxable period any treasury stock, copies of the journal entries covering the original issuance, repossession and any subsequent adjustments should be furnished. Treasury stock includes all stock reacquired by the corporation and not cancelled, regardless of the reason for the acquisition.

Item.	Amount.
Capital stock paid up and actually outstanding at the close of the preceding year:	
1. First preferred	\$.....
2. Second preferred
3. Common
4. Total	\$.....
Surplus and undivided profits:	
5. Paid-in surplus
6. Earned surplus and undivided profits
7. Reserves, additions to which are not deductible in computing net income (to be reconciled with balance-sheet items)
8. Other items (to be detailed)
9. Total of Items 4, 5, 6, 7, and 8	\$.....
10. Deduction on account of treasury stock
11. Capital and surplus at beginning of taxable period as shown by books	\$.....

SCHEDULE F.—ADJUSTMENTS BY WAY OF ADDITIONS.

F1. If an addition to invested capital is claimed in Item 1, Schedule F, submit a statement showing (a) the kind of property, (b) the year in which it was paid in, (c) from whom acquired, explaining his relationship to the corporation, (d) the actual cash value of such property at the date when paid in, (e) the par value of stock or shares issued therefor and the amount at which such property was entered in the accounts, (f) the basis upon which the actual cash value of the property was determined and the date when such determination was made, and (g) the amount of depreciation sustained on such property from the date of acquisition to the beginning of the taxable period.

F2. If an addition to invested capital is claimed in Item 2, Schedule F, submit a statement showing (a) the kind of property, (b) the year in which it was acquired, (c) its cost, (d) the amount of depreciation sustained on such property from the date of acquisition to the beginning of the taxable period. State also whether each item sought to be restored was actually used or usable at the beginning of the taxable period. Were these expenditures, when made, written off in lieu of depreciation?..... If so, explain what adjustments have been made to provide for depreciation in view of the proposed restoration to surplus. Additions in this item are cumulative to the beginning of the taxable period. For all additions hereunder pro-

vision must be made for depreciation to the beginning of the taxable period.

F3. If any addition to invested capital is claimed in Item 3, Schedule F, state specifically the amount of depreciation written off each year in the books of the company and the amount allowed as a deduction in computing net income. Additions to this item are cumulative to the beginning of the taxable period.

Item.	Amount.
1. Actual cash value of tangible property clearly and substantially in excess of par value of stock issued therefor or of the cash or other consideration paid therefor (Articles 836 and 837)	\$
2. Additions to surplus (Articles 840 to 843)
3. Depreciation or depletion charged in accounts of the corporation but disallowed by the Department as a deduction on income-tax returns
4.
5.
6.
7. Total	\$

SCHEDULE G.—ADJUSTMENTS BY WAY OF DEDUCTIONS.

G1. Is any patent, copyright, secret process, or formula, good will, trade-mark, trade brand, franchise, or other similar intangible property, paid in for stock, carried as an asset by the corporation? If not entered specifically as such, is the intangible value merged under any other title or titles on the books or balance sheets submitted with this return? Is it entered on the books at a value in excess of its actual cash value when paid in? In excess of the par value of the stock issued therefor? Is the aggregate of such assets acquired prior to March 3, 1917, entered on the books at a value in excess of 25 per cent of the par value of the stock outstanding on March 3, 1917? Is the aggregate of such assets entered on the books at a value in excess of 25 per cent of the par value of the stock outstanding at the beginning of the taxable period?

If the answer to any of the foregoing questions is "yes," submit a statement showing separately with respect to such assets acquired (1) before March 3, 1917, and (2) on or after that date, (a) date of acquisition; (b) cash value at that date, with a complete explanation of the basis upon which such cash value was determined; (c) par value of the stock issued therefor; (d) par value of total stock outstanding March 3, 1917; (e) par value of total stock outstanding at the beginning of the tax-

able period; (f) the value at which such assets are entered on the books of the corporation.

If all the intangibles were acquired before March 3, 1917, the amount by which (f) exceeds (b), (c), 25 per cent of (d), or 25 per cent of (e), whichever is lowest, must be entered at Item 1, Schedule G, for the taxable period.

If the intangibles were acquired on or after March 3, 1917, the amount by which the entry in (f) relating to such intangibles exceeds (b) or (c) relating thereto, or 25 per cent of (e), whichever is lowest, must be included in Item 1, Schedule G, for the taxable period: Provided, That if intangibles were acquired before March 3, 1917, and also on or after that date, deduction shall be made so that the amount included in invested capital for the aggregate of intangibles shall not exceed 25 per cent of the par value of the total stock outstanding at the beginning of the taxable period.

Note—If the stock of the corporation was issued at a nominal value or without par value, for the purpose of the computation under Item 1, the par value shall be deemed to be the fair market value as of the date or dates of issue. The aggregate value so determined of stock outstanding on March 3, 1917, or at the beginning of the taxable period, shall be the basis for the computation.

G2. Is any tangible property, paid in for stock, carried as an asset by the corporation?
If so, is it entered on the books at a value in excess of its actual cash value when received?

In excess of the par value of the stock paid therefor?

If the answer to any of the foregoing questions is "yes" submit a statement showing (a) kind of property, (b) when acquired, (c) par value of the stock paid therefor, (d) actual cash value of the property when paid in, (e) the basis on which that value was determined, (f) value at which the property is entered on the corporation's books, and (g) amount by which such value exceeds the allowable value under Section 326 (a) (2) of the Revenue Act of 1918. Enter this amount as Item 2, Schedule G, for the taxable period.

G3. Was the business reincorporated, reorganized, or consolidated or was its ownership changed or was there a change in ownership of property after March 3, 1917? If so, answer the following questions:

(a) Did an interest of 50 per cent or more in the business or in the property which changed ownership remain in the control of the same persons, corporations, associations, or partnerships, or of any of them?

(b) Were any of the assets entered on the books of the corporation making this return at a higher value than on the books of its predecessor?

(c) If such previous owner was not a corporation, attach a statement showing (1) the cost of acquisition to the previous owner of any asset so transferred or received, (2) expenditures subsequent to that date for betterment or development not deducted as expense or otherwise since March

1, 1913, by such previous owner, (3) the allowance for depreciation, depletion, or impairment since the date of acquisition by such previous owner.

(d) If all, or substantially all, of the property was acquired from a corporation during the taxable period, attach hereto balance sheets of such predecessor corporation as at the beginning of the taxable period and as at the date immediately prior to the transfer of the property to the corporation making the return, and also a balance sheet or statement of the corporation making this return showing the values at which such property received or transferred were entered on the books.

For the purpose of determining invested capital each asset so transferred shall be valued (a) as if still in the possession of the previous owner, if a corporation, or, if not a corporation, (b) at its cost to such previous owner, with proper adjustments for losses and improvements.

G4. Is any property (including physical property, securities, and intangible property) paid for with cash or with other tangible property entered on the books of the corporation at a value in excess of the amount of cash paid therefor or the actual cash value of the tangible property paid therefor? If so, submit a statement showing (a) kind of property, (b) amount of cash paid therefor, (c) actual cash value of other tangible property paid therefor, (d) how that value was determined, (e) value at which the property is entered on the books of the corporation, and (f) excess of

(e) over (b) or (c). This excess must be entered as Item 4, Schedule G, for the taxable period.

G5. Has adequate provision been made in the accounts of the company for (a) losses of every kind?, (b) depreciation?, (c) obsolescence?, (d) depletion of mineral deposits, timber supplies, and the like?

If adequate charge has not been made for depreciation, depletion obsolescence, and other losses, and the value of the property has not been maintained by replacements that have been charged to expense, proper additional charges therefor must be computed for all years in which they were not made on the books, and the total amount of such charges must be entered as Item 5, Schedule G.

Item.	Amount.
1. Valuation of patents, copyrights, secret processes, or formulae, good will, trade-marks, trade brands, franchises, or other intangible property	\$
2. Valuation of tangible property paid in for stock
3. Valuation of assets acquired in reorganizations
4. Appreciation
5. Depreciation, depletion, and other losses
6.
7.
8. Total Deductions	\$

SCHEDULE H.—CHANGES IN INVESTED CAPITAL DURING TAXABLE PERIOD.

1. Changes in invested capital during the taxable period ordinarily arise in one or more of the following ways:

Additions—

- (a) By sale of capital stock for cash or by the issue of capital stock for tangible or other assets.
- (b) By payment of assessments by stockholders or by creation of paid-in surplus by contribution of stockholders.

Deductions—

- (c) By liquidation of part of the capital by retirement of stock or by purchase of treasury stock not out of current earnings.
- (d) By payment of cash dividends out of earnings of prior years.
- (e) By payment of Federal income and profits taxes for the previous years.

The changes with respect to taxes will occur in nearly every case. Should no changes be noted, the reason for the omission should be stated.

2. The following instructions should be followed in making the above adjustments; each item should be designated as an addition or deduction, deduction being designated by red ink:

- (a) If stock is issued for cash, the actual cash received (but not the amount of discount) should be entered in this schedule. Assets (other than cash) paid in for stock must be valued in accord-

ance with Section 326 (a) (2) of the Revenue Act of 1918.

(c) If capital stock of the corporation is re-acquired but not paid for out of current profits, the cost of such stock should be deducted from invested capital.

(d) Report dividends paid out of profits of prior years but not dividends paid out of profits of the taxable period. Any distribution made during the first 60 days of the taxable period shall be deemed to have been made from earnings or profits accumulated during preceding taxable period; but any distribution made during the remainder of the taxable period shall be deemed to have been made from the profits for that period to the extent that such profits are sufficient. (See Article 1542.)

(e) The amount of Federal income and profits taxes payable should be prorated and deducted as of the dates when due and payable whether reserves have been set up on the books or not. (See Article 245.)

3. The data called for in columns 1 to 5 should be given for all transactions, except that columns 3 and 4 are applicable only to the issue or reacquisition of the corporation's stock.

4. In column 6 enter the number of days remaining in the taxable period (including the date of change).

5. The net changes not reported in Schedule L, if not in accordance with the increases or decreases reflected in the balance sheets, should be fully reconciled therewith.

1. Nature of additions and deductions.	2. Date.	3. Number of shares sold or reacquired.	4. If for cash, state price per share.	5. Amount of cash or cash value actually received or paid out.	6. Number of days effective.	7. Adjusted average. Column 5 x Column 6 No. days in taxable period.
1			\$	\$		
2						
3						
4						
5						
6						
7						
8						
9						

SCHEDULE J.—INADMISSIBLE ASSETS.

Has the corporation any inadmissible assets (i. e., stocks, bonds, and other obligations, except obligations of the United States, the income from which is not taxable)?

If so, attach hereto a statement showing for the taxable period the facts called for in items (a) to (j) of this schedule.

If the income from such assets consists in part of gain or profit from the sale or other disposition thereof, or if all or part of the interest derived from such assets is in effect included in the net income because of the limitation on the deduction of interest under Section 234 (a) (2) of the Revenue Act of 1918, then a corresponding part of the capital invested in such assets is deemed an admissible asset. In such case set forth in detail—

- (a) the various kinds of income derived from such assets and the computation of the part of the capital invested therein which is deemed an admissible asset.

For the purpose of this schedule inadmissible assets shall be valued at cost of acquisition, except that if the taxpayer is a dealer in securities and inventories such assets in accordance with Article 1585, Regulations 45, such inventory figure shall constitute the measure of value. Admissible assets shall be valued as provided in Sections 326, 330, and 331 of the Revenue Act of 1918 and Articles 831-869, 931-934, and 941 of Regulations 45. The average amount of assets of each kind held during

any year may ordinarily be determined by dividing by 2 the sum of the amount of such assets held at the beginning of the taxable period and the amount held at the end of the taxable period. In such case the amount of admissible assets may best be determined from (1) the balance sheet as at the beginning of the period adjusted with respect to the items in Schedules F and G and (2) the balance sheet as at the end of the period correspondingly adjusted. But if at any time during the taxable period a substantial change has taken place in the amount of such assets, the average amount must be determined as provided in Article 852 of Regulations 45. In such case show in detail—

- (b) The computation of such amount;
- (c) Amount of inadmissible assets held at beginning of the taxable period;
- (d) Amount of inadmissible assets held at end of taxable period;
- (e) Average amount of inadmissible assets held during taxable period;
- (f) Amount of admissible assets held at beginning of taxable period;
- (g) Amount of admissible assets held at the end of taxable period;
- (h) Average amount of admissible assets held during taxable period;
- (i) Sum of (e) plus (h);
- (j) Percentage which (e) is of (i).

This percentage (j) should be applied to the amount appearing on line 7, Schedule B, in order

to obtain the deduction on account of inadmissible assets, which should be entered on line 8, Schedule B. [87]

QUESTIONS.

KIND OF BUSINESS.

1. By means of the key letters given below, identify the corporation's main income-producing activity with one of the general classes, and follow this by a special description of the business sufficient to give the information called for under each general class.

(A) Agriculture and related industries, including fishing, logging, ice harvesting, etc., including the leasing of such property. State the product or products. (B) Mining and quarrying, including gas and oil wells. Include the leasing of such property. State the product or products. (C) Manufacturing. State the product and also the material if not implied by the name of the product. (D) Construction. Excavations, buildings, bridges, railroads, ships, etc., also equipping and installing same with systems, devices, or machinery, without their manufacture. State nature of structures built, materials used, or kind of installations. (E1) Transportation—rail, water, local, etc. State the kind and special product transported, if any. (E2) Public utilities, gas, natural, coal, or water; electric light or power, hydro or steam generated; heating, steam or hot water; telephone; waterworks or power. (E3) Storage without trading or profit from sales. Elevator, warehouses, stockyards, etc. State pro-

duct stored. (E4) Leasing transportation or utilities. State kind of property. (F) Trading in goods bought and not produced by the trading concern. State manner of trade, whether wholesale, retail, or commission, the product handled. Sales with storage with profit primarily for sales. (G) Service, domestic, including hotels, restaurants, etc.; amusements; other professional personal, or technical service. State the service. (H) Finance, including banking, real estate, insurance. (I) Concerns not falling in above classes (a) because of combining several of them with no predominant business, or (b) for other reasons.

2. Concerns whose business involves activity falling in two or more of the above general classes, where the same product is concerned, should report business as identified with but one of the above general classes; for example, concerns in A or B which also transport and market their own product exclusively or mainly, should still be identified with classes A or B; concerns in C (manufacturing) which own or control their source of material supply in A or B and which also transport, sell, or install their own product exclusively or mainly, should be identified with manufacturing; concerns in D may control or own source of supply of materials used exclusively or mainly in their constructive work; concerns in E1 or E2 may own or control the source of their material or power; concerns in F may transport or store their own merchandise, but its production would identify them with A, B, or C.

3. Answers:

(a) General class (use key-letter designation).....

(b) Main income-producing business (give specifically the information called for under each key letter, also whether acting as principal, or as agent on commission; state if inactive or in liquidation)

.....

.....

.....

OTHER CONCERNS IN SAME BUSINESS.

4. Enter on the following lines the names and addresses of five representative concerns in your locality or section of the country engaged in the same kind of business:

.....

.....

.....

.....

.....

INCORPORATION.

5. Date of incorporation

6. Under the laws of what State or country?.....

.....

REORGANIZATION AND ACQUISITION OF
MIXED AGGREGATES OF ASSETS.

7. Has the corporation, or any of its predecessors, been reorganized, or has it, or a predecessor, taken over a going business or acquired a mixed

aggregate of tangible property, patents, and copyrights, and good will and other similar intangible property, and paid for such property in whole or in part with stock or other securities since the close of the preceding taxable period?

8. If so, furnish a brief narrative history of the business and submit a statement showing:

(a) The name of the concern taken over (or from which the property was acquired);

(b) The nature of the assets and liabilities so acquired;

(c) The total par value of the stock issued therefor;

(d) The value at which each class of assets was carried on the books of the concern from which acquired (submit a balance sheet of the predecessor concern as at the date of acquisition or as at the close of its last accounting period prior thereto);

(e) The value at which each item was entered in the books of the corporation making this return, and full details of any adjustments subsequently made pertaining thereto and the basis on which such revaluation was made.

9. If patents, copyrights, secret processes or formulæ, good will, trade-marks, trade brands, franchises, or other intangible property were acquired, state also the basis on which their value was determined and how they were paid for.

10. If at the time of any purchase or reorganization as contemplated in question 7, any property was entered on the books of the reorganized concern

or any vendee predecessor at a value in excess of that at which it was carried on the books of the vendor concern, state the basis on which the re-valuation was made.

AFFILIATIONS WITH OTHER CORPORATIONS (TO BE ANSWERED BY EVERY CORPORATION).

11. Do you own directly or control through closely affiliated interests or by a nominee or nominees over 50 per cent of the outstanding voting capital stock of another corporation or of other corporations?

12. Is over 50 per cent of your outstanding voting capital stock owned by another corporation or by two or more corporations that are affiliated?.....

13. Is over 50 per cent of your outstanding voting capital stock as well as over 50 per cent of the outstanding voting capital stock of another corporation or of other corporations owned or controlled by the same individual or partnership or by the same individuals or partnerships?

14. If the answer to questions 11, 12, or 13, or any of them is "yes," procure from the Collector of Internal Revenue for your district Affiliated Corporations Questionnaire, Form 819, which shall be filled out and filed as a part of this return.

VALUATION OF CAPITAL STOCK.

15. What was the fair value of the total capital stock of the corporation as determined in the last assessment, if any, of the capital stock tax \$.....
Date of that assessment?

PREDECESSOR BUSINESS.

16. Did you file a return under the same name for the preceding taxable period? Answer "Yes" or "No" If not, was your corporation in anyway an outgrowth, result, continuation, or re-organization of a business or businesses which was in existence during the taxable or preceding period? Answer "Yes" or "No" If answer is "yes," give name and address of each predecessor business.

.....

.....

BASIS OF RETURN.

17. Is this return made on the basis of actual receipts and disbursements?
If not, describe fully what other basis or method was used in computing net income

GOVERNMENT CONTRACTS.

18. Have any adjustments been made during the taxable period on account of contract or contracts between the Government or its agencies or in any Government contract or contracts in which you derived income directly or indirectly, through the operations of a claim board or otherwise? Answer "Yes" or "No." If so, state the amounts involved \$.....; whether or not such amounts are included in this return.....; and, if not, was an amended return for 1918, accounting for the additional income, filed?
Submit a schedule showing full particulars of the contract, date entered into, date the work ceased

under said contract or contracts, and the amount and nature of the adjustment.

PREPARATION OF RETURNS.

19. Did you employ anyone especially to prepare or advise in the preparation of this return? Answer "Yes" or "No" If so, give name and address

LIST OF ATTACHED SCHEDULES.

Enter below a list of all schedules accompanying this return, giving for each a brief title and the schedule number.

.....

.....

.....

None—Business closed.

SCHEDULE K.—BALANCE SHEETS.

Attach hereto balance sheets as of the beginning and end of the taxable period (preferably in parallel columns), showing as nearly as practicable the details called for below. (These balance sheets should be prepared from the books and should be in agreement therewith, or any differences should be reconciled, and if this is a consolidated return, balance sheets should be furnished in accordance with paragraph 7 of page 1 of Instructions.)

ASSETS.

Cash (including cash in bank, and on hand, certificates of deposit, etc.).

Trade accounts (before deducting reserves for losses).

Notes receivable from customers.

Other accounts and notes receivable (to be classified).

Inventories:

Raw Materials.

Work in progress.

Finished products.

Supplies.

Investments:

Bonds—

U. S. bonds and obligations (each issue to be stated separately).

Exempt (municipal, State, etc.).

Other.

Stock of corporations—

Foreign.

Domestic.

Loans and advances:

To officers and employees.

To others.

Deferred charges to future operations (to be detailed).

Fixed assets:

Land.

Buildings.

Machinery.

Tools and minor equipment.

Delivery equipment.

Office furniture.

Other (state character).

Total.

Less reserves for depreciation (show separately amount applicable to each fixed asset).*

Net Value.

Patents, good will, and other intangible assets:

Paid for in cash or other tangible property.

Paid for in stock (other than stock dividends).

Created by stock dividends or otherwise.

Discount:

On bonds.

On stock.

Total.

LIABILITIES.

Notes payable:

To officers and stockholders.

To others (including bank loans).

Accounts payable:

Trade.

Other.

Accrued expenses and reserves, the charges creating which are allowable deductions from income (to be detailed).

Reserves, the charges creating which are not allowable deductions from income:

Reserves for losses on notes and accounts receivable.

Other reserves (to be detailed).

Capital stock outstanding (to be classified).

Surplus and undivided profits.

Total.

*Reserves for depreciation may be deducted from the respective asset account or itemized on the liability side of the balance sheet.

All corporations engaged in an interstate and intrastate trade or business and reporting to the Interstate Commerce Commission and to any national, State, municipal, or other public officer, may submit in lieu of above Form copies of their balance sheets prescribed by said Commission or State and municipal authorities, as at the beginning and end of the taxable period.

SCHEDULE L.—ANALYSIS OF SURPLUS ACCOUNT.

Attach hereto an analysis of the corporation's surplus account, showing the details of all adjustments of surplus for the taxable period, as nearly as practicable in the following form:

1. Surplus at beginning of taxable period as shown by books.

Add: 2. Total net profit as shown by books (Item 1, Schedule M).

3. Other credits to surplus (to be detailed).

4. Total of Items 1, 2, and 3.

Deduct: 5. Dividends (state date declared and date and amount of each payment, also whether in cash or in stock, and out of which year's earnings paid).

6. Other debits to surplus (to be detailed).

7. Total of Items 5 and 6.

8. Surplus at end of year as shown by books.

If this is a consolidated return, analyses should be furnished in accordance with paragraph 7, page 1, of Instructions. [88]

SCHEDULE M.—RECONCILIATION OF NET PROFIT AS SHOWN BY BOOKS WITH TAXABLE NET INCOME.

1. Net profit for taxable period as shown by books, before any adjustments are made therein	\$
2. Unallowable deductions:	
(a) Donations, gratuities, and contributions	
(b) Income, war-profits, and excess-profits taxes paid or accrued to the United States, its possessions, or a foreign country	
(c) Special improvement taxes tending to increase the value of the property assessed	
(d) Furniture and fixtures, additions, or betterments treated as expenses on the books	
(e) Replacements covered by depreciation	
(f) Insurance premiums paid on the life of any officer or employee for the benefit of the corporation or business	
(g) Interest on indebtedness incurred or continued to purchase or carry obligations or securities (other than obligations of the United States issued after September 24, 1917), the interest upon which is wholly exempt from taxation	
(h) Additions to reserves for bad debts, contingencies, etc. (to be detailed)	
(i)	

- (j)
 (k)
 (l)
 (m) Other unallowable deductions (to be detailed)
 (n)
3. Distributive share of net income, earned during period by personal service corporations not received or accrued on books.....
 4. Amount necessary to adjust book profit or loss with the amounts reported in Items 22 and 23, Schedule A (unless entry belongs on line 8).....
 5. Total \$.....
6. Nontaxable income:
- (a) Interest on obligations of the United States and its possessions, wholly exempt \$.....
 (b) Interest on obligations of States, Territories, and political subdivisions thereof
 (c) Interest on Farm Loan Bonds issued under Federal Farm Loan Act.....
 (d) Dividends on stock of domestic corporations and from foreign corporations taxable by United States upon any portion of their net incomes.....
 (e) Dividends on stock of personal service corporations out of earnings upon which a Federal income tax has been imposed
 (f) Other items of nontaxable income (to be detailed)
 (g)

(h)	.....	.....
(i)	.....	.....
7. Charges against reserves for bad debts, contingencies, etc. (to be detailed)	.....	.....
(a)	.....	.....
(b)	.....	.....
(c)	.....	.....
(d)	.....	.....
8. Amount necessary to adjust book profit or loss with the amounts reported in Items 22 and 23, Schedule A (unless entry belongs on line 4)	.....	.....
9. Taxable net income (Item 27, Schedule A)	.....	.....
10. Total	.....	\$ .....

SUPPORTING SCHEDULES.

The following schedules must be filled out in support of Schedule A, page 1, and firmly attached to this Return:

SCHEDULE A2: COST OF GOODS SOLD, EXCLUSIVE OF EXPENSES, REPAIRS AND OTHER ITEMS CALLED FOR SEPARATELY. (Secure from the Collector of Internal Revenue and file as a part of this Schedule Certificate of Inventory, Form 1126.)

Merchandise bought for sale.....	\$.....
Cost of manufacturing or otherwise producing goods. (Submit schedule showing principal items of cost.).....	.....
Plus inventories at beginning of year .....	.....
Total	\$.....
Less inventories at end of year.....	.....
Cost of goods sold .....	.....

NOTE.—Inventories must be valued at (a) cost or (b) cost or market, whichever is lower, provided that whichever basis is used must be applied to each item in the inventory and not to a part only. Inventories at the end of the taxable period must be value on the same basis as those at the end of the preceding taxable period, unless permission to make a change has been first obtained from the Commissioner.

If claims for losses on inventories or rebates on sales made under Section 214 (a) 12 of the Revenue Act of 1918 have been allowed, the opening invent-

ory must be correspondingly adjusted (see Article 266 of Regulations [illegible])

State here which of the above-mentioned bases for valuing inventories is used in this return.....

SCHEDULE A3: GROSS INCOME FROM OPERATIONS OTHER THAN TRADING OR MANUFACTURING.

Submit a schedule showing the nature and amount of the principal items included. See Schedule A, Item 3. (For insurance companies see paragraphs 2 and 3, page 2, General instructions.)

SCHEDULE A4: INTEREST ON OBLIGATIONS OF UNITED STATES OR ITS POSSESSIONS NOT EXEMPT.

Enter in table below the maximum amount of Liberty Bonds and other obligations of the United States issued since September 1, 1917 (par value), held at any one time, and War Finance Corporation Bonds from which interest was derived during the taxable period.

1. Class of Obligation.	2. Maximum Amount of Obligations.	3. Maximum Exemption.		
(a) First Liberty Loan converted into Second Loan and Second Liberty Loan unconverted	\$.....	\$45,000 (See Note A.)	\$30,000	\$20,000 (See Note B.)
(b) First and Second Liberty Loans con- verted into Third Loan and Third Liberty Loan .....	.....		
(c) First Liberty Loan converted into Fourth Loan .....	.....	\$30,000 \$30,000		\$5,000
(d) Fourth Liberty Loan .....	.....		
(e) Other United States obligations, ex- cept class (f), issued since Septem- ber 1, 1917 .....	.....		
(f) Victory Liberty Loan 4¾% Notes	None.			
(g) War Finance Corporation Bonds	\$5,000 (See note C.)			

Note A.—This exemption (maximum \$45,000) is limited to one and one-half times the amount of bonds of the Fourth Liberty Loan originally subscribed for and still held. State here amount of bonds of the Fourth Liberty Loan originally subscribed for and still held: \$.....

Note B.—This exemption (maximum \$20,000) is limited to three times the amount of notes of the Victory Liberty Loan originally subscribed for and still held. State here amount of notes of the Victory Liberty Loan, $3\frac{3}{4}\%$ and $4\frac{3}{4}\%$, originally subscribed for and still held. \$.....

Note C.—This exemption is separate from the \$5,000 exemption allowed on other obligations and can only be claimed against War Finance Corporation bonds.

Interest upon First Liberty Loan $3\frac{1}{2}\%$ and Victory Liberty Loan $3\frac{3}{4}\%$ convertible gold notes is exempt from all income and profits taxes. Interest upon all other issues of Liberty Loan Bonds as well as interest upon certificates of indebtedness and War Saving certificates is exempt from normal income tax regardless of the amount of the principal and is exempt from profits taxes, only to the extent provided for in the act authorizing the issue and subsequent acts. If your holdings are in excess of the exemptions specified above, secure Form 1125 from Collector and compute taxable interest. Interest on War Finance Corporation bonds is exempt from all normal income tax and is exempt from profits taxes only with respect

to a principal not exceeding \$5,000. This exemption is in addition to the exemptions above referred to.

SCHEDULE A5: INTEREST FROM OTHER SOURCES.

Submit a schedule showing the source, nature, and amount of the principal items included herein, the minor items being grouped in one figure. The total of the schedule should be entered as Item 5, Schedule A.

(1) Have you included in this item any interest on preferred stock? If so, how much? \$.....

(2) Have you included in this item any Federal income tax paid at source in pursuance of tax-free covenant bonds? If so, how much? \$.....

For interest on foreign bonds submit a schedule showing (a) name of country, (b) kind of obligations (whether national, State, municipal, or corporate obligations), (c) amount of principal, and (d) amount of interest.

SCHEDULE A6: INCOME FROM RENTALS.

Rentals to be reported as income will include all accruals as rent on buildings or other property owned or controlled by the corporation making the return. (Schedule A, Item 6.)

SCHEDULE A9: DIVIDENDS ON STOCK OF FOREIGN CORPORATIONS.

Submit a schedule showing (1) with respect to foreign corporations taxable by the United States

upon any portion of its net income, (a) name of corporation, (b) country in which organized, (c) total par value of stock held, and (d) amount of dividends; (2) same information with respect to foreign corporations not taxable by the United States upon any portion of the net income.

**SCHEDULE A10: GROSS INCOME FROM ALL
OTHER SOURCES EXCEPT DIVIDENDS**
(not including any amount in respect to sale of capital assets or miscellaneous investments).

Submit a schedule showing the source, nature, and amount of the principal items included herein, the minor items being grouped in one figure. The total of the Schedule should be entered as Item 10, Schedule A.

**SCHEDULE A12: ORDINARY AND NECES-
SARY EXPENSES** (except amounts called for separately in Schedule A and not including cost or value of capital assets or miscellaneous investments sold during taxable period).

Submit a statement showing character and amount of the principal items included in Item 12, Schedule A. (For schedules to be submitted by insurance companies see paragraphs 4 to 7, page 2, General Instructions.)

**SCHEDULE A13: COMPENSATION OF
OFFICERS.**

Submit a schedule showing for each officer (1) name, (2) duties, (3) time devoted to such duties, (4) shares of stock owned or controlled; (a) pre-

ferred, (b) common; (5) total compensation for the taxable period, and (6) amount of, and reason for increase, if any, over preceding period.

Submit a schedule showing for each employee (if a stockholder of the corporation), whose compensation is at the rate of \$3,000 or more per annum, facts similar to those called for in respect to officers.

SCHEDULE A14: REPAIRS (including labor, supplies, overhead, and other items properly chargeable to repairs).

Submit a schedule showing the nature and amount of the principal items included in Item 14, Schedule A. (For classification of repairs see paragraph 8, page 2, General Instructions.)

SCHEDULE A17: DEBTS ASCERTAINED TO BE WORTHLESS AND CHARGED OFF WITHIN TAXABLE PERIOD.

Submit a schedule showing the amount (a) arising from sales, or services previously reported as income; (b) arising from other sources (interest, rent, royalties, etc.) previously reported as income; (c) arising from sources other than those specified above (to be itemized).

SCHEDULE A18: EXHAUSTION, WEAR AND TEAR (INCLUDING OBSOLESCENCE).

If a deduction is made on account of depreciation, the following schedule must be filled in, and the total amount claimed in this schedule should correspond with the figures reflected in the balance sheet. (See General Instructions, page 2.)

Kind of property (If buildings, state the material of which con- structed.)	Date acquired	Cost or fair market value as at March 1, 1913, if acquired prior thereto.	Probable life after acquisition.	Amount of depreciation charged off.	
				This year.	Previous years.
	\$	\$	\$	\$	\$
Total	\$	\$	\$	\$	\$

Note.—If obsolescence is a factor in determining your deduction attach a statement showing the amount claimed for the taxable period and the basis on which computed.

**SCHEDULES A22 and A23: PROFIT OR LOSS
ON SALES OF CAPITAL ASSETS** (including liquidating dividends and miscellaneous investments, and losses sustained during the taxable period from fire, storm, or other casualty, or from theft, not compensated for by insurance or otherwise).

In case of sale of capital assets during taxable period, report the following information:

- (1) Original cost of assets \$.....
 - (a) Date of acquisition
 - (b) Kind of asset
- (2) Fair market price or value as of
March 1, 1913, if acquired prior
thereto
- (3) Cost of subsequent improve-
ments, if any
- (4) Depreciation, depletion, obsol-
escence, or amortization to date
of sale:
 - (a) Shown by books \$..... ..
 - (b) Accrued but not
on books \$..... ..
- (5) Net cost (Item 1 or Item 2,
plus Item 3, minus Item 4)..... ..
- (6) Price at which assets were sold
or amount of liquidating div-
idends received

(7) Profit or loss

(a) If loss, report amount of salvage, insurance, or other recovery, if any \$.....

(b) Date loss charged off.....

State also how and by whom fair market price or value as of March 1, 1913, was determined.....

Report what amount, if any, of the value above includes good will..... \$.....

In case of exchange of investments submit evidence substantiating the basis used by you in arriving at the cash value of property received in exchange for other property.

SCHEDULE A26: AMORTIZATION OF WAR FACILITIES.

The amount claimed as a deduction under this item should be substantiated by schedule prepared in accordance with Section 214 (a) 9, Revenue Act of 1918, Articles 181 to 188, inclusive, of Regulations 45, and Treasury Decision 2859, amending Article 184. The specific information to be submitted is outlined in Article 188, Regulations 45.

DISCOUNT AND PREMIUM ON BONDS SOLD.

There must be attached to the return a schedule showing in detail each issue and sale of bonds of the reporting corporation giving the following information: (a) Class; (b) date of sale; (c) maturity; (d) amount sold; (e) amount realized; (f) premium or discount per annum.

That proportion of the premium or discount applicable to the return period must be reported either as Item 10 or 15, Schedule A, page 1, unless the amount of premiums or discount has been reported as income or allowed as a deduction in prior years. (See Article 544, Regulations 45).

We, the undersigned, president and treasurer of the corporation, for which this return is made, being severally duly sworn, each for himself deposes and says that this return, including the accompanying schedules and statements, has been examined by him and is, to the best of his knowledge and belief, a true and complete return made in good faith pursuant to the Revenue Act of 1918 and the Regulations issued thereunder.

[Seal of officer making affidavit.]

ELMER D. BRYSON

Treasurer.

Sole remaining officer.

Sworn to and subscribed before me this 24th day of February, 1920.

W. F. CROWE

Notary Public

(Official capacity.) [89]

[Endorsed]: U. S. Board of Tax Appeals, Div. 15, Docket 22184. Admitted in Evidence Jun. 2, 1930. Respondent's Exhibit B.

[Insignia]

United States of America
TREASURY DEPARTMENT
Washington

May 21, 1930.

PURSUANT to the provisions of Section 661, Chapter 17, Title 28 of the United States Code (Section 882 of the Revised Statutes of the United States), I hereby certify that the annexed are true copies of Assessment Certificate and that portion of the March, 1924, Special #17, income tax assessment list—Washington collection district—showing an additional assessment of \$5,896.86 for [illegible] against Bryson-Robinson Corporation, c/o Elmer D. Bryson, Walla Walla, Washington, on file in this Department.

IN WITNESS WHEREOF, I have hereunto set my hand, and caused the seal of the Treasury Department to be affixed, on the day and year first above written.

By direction of the Secretary of the Treasury:

[Seal]

F. A. BIRGFELD,
Chief Clerk, Treasury Department. [90]

Treasury Department, Internal Revenue Service. March, 1922.				Page No. 0
ASSESSMENT LIST. SPECIAL 17				
District WASHINGTON, INCOME TAX MARCH 1924, # LIST				
(Classification.)				
	Old Balance	Date	Debit	Credit
			New Balance	Remarks
0				
1				
2				
3				
4	BRYSON-ROBINSON CORP.		5896.86	1917 45502283
	C/o ELMER D BRYSON			NC 250 D
	WALLA WALLA WASH			OA 12/4/23
	MAR 04 SPL 17			
5				
6				
7				
8				
9				

[Endorsed]: U. S. Board of Tax Appeals, Div. 15, Docket 22184. Admitted in evidence Jun. 2, 1930. Respondent's Exhibit C.

[Insignia]

United States of America
TREASURY DEPARTMENT
Washington

May 21, 1930.

PURSUANT to the provisions of Section 661, Chapter 17, Title 28 of the United States Code (Section 882 of the Revised Statutes of the United States), I hereby certify that the annexed are true copies of Assessment Certificate and that portion of the September 1925, Special No. 1, income tax assessment list—Washington collection district—showing an additional assessment of \$5,[illegible] for 1918, against Bryson-Robison Corporation, Inc., Walla Walla, Washington, on file in this Department.

IN WITNESS WHEREOF, I have hereunto set my hand, and caused the seal of the Treasury Department to be affixed, on the day and year first above written.

By direction of the Secretary of the Treasury:

[Seal]

F. A. BIRGFELD

Chief Clerk, Treasury Department. [93]

Treasury Department

Internal Revenue Service

Form 23C-1—Revised April, 1925

Assessment Certificate

COMMISSIONER'S ASSESSMENT LIST

District of Washington

Month September Spl No. 1

Year 1925

Additional Assessments made by Commissioner:

Personal \$.....

Corporation \$ 5,741.89

Total Assessments \$ 5,741.89

I hereby certify that I have made inquiries, determinations, and assessments of taxes, penalties, etc., of the above classification specified in these lists, and find that the amounts of taxes, penalties, etc., stated as corrected and as specified in the supplementary pages of this list made by me are due from the individuals, firms, and corporations opposite whose names such amounts are placed, and that the amount chargeable to the collector is as above.

D. H. BLAIR

Commissioner of Internal Revenue. [94]

Dated at Washington, D. C.

Office of Commissioner of Internal Revenue,

Sep. 1, 1925.

Treasury Department,
Internal Revenue Office.
..... March, 1922.

Page No.....

ASSESSMENT LIST.

District Washington, Income Tax, List September 1925 Special No. 1

(Classification.)

Old Balance	Date	Debit	Credit	New Balance	Remarks
BRYSON-ROBISON CORP INC				5741.89	SEC 274 D RAR
WALLA WALLA WASHINGTON				1918 438626	
				OL 8/17/25	

SEPT OO C SPL NO 1

Information indicates this taxpayer is in process of dissolution. Verify.
If information is correct, notify proper parties of personal liability under
Revised Statutes Sections 3466 and 3467 if other creditors are paid before this tax is satisfied.

5741.89

[95]

[Endorsed]: U. S. Board of Tax Appeals, Div. 15, Docket 22184. Admitted in evidence Jun 2, 1930. Respondent's Exhibit D.

[Insignia]

United States of America
TREASURY DEPARTMENT
Washington

May 21, 1930.

PURSUANT to the provisions of Section 661, Chapter 17, Title 28 of the United States Code (Section 882 of the Revised Statutes of the United States), I hereby certify that the annexed are true copies of Assessment Certificate and that portion of the March 1925, Special #7, income tax assessment list—Washington collection district—showing an additional assessment of \$2,973.54 for [illegible] against Bryson Robinson Corporation, Walla Walla, Washington, on file in this Department.

IN WITNESS WHEREOF, I have hereunto set my hand, and caused the seal of the Treasury Department to be affixed, on the day and year first above written.

By direction of the Secretary of the Treasury:

[Seal]

F. A. BIRGFELD,

Chief Clerk, Treasury Department. [96]

Treasury Department
Internal Revenue Service
Form 23C-1—Mar., 1923.

Assessment Certificate
COMMISSIONER'S ASSESSMENT LIST
District of Washington
Month March Special #7
Year 1925

Additional Assessments made by Commissioner:

Personals	136,336.01
Corporations	50,878.17

.....
.....
.....
.....
.....

Total Assessments \$187,214.18

I hereby certify that I have made inquiries, determinations, and assessments of taxes, penalties, etc., of the above classification specified in these lists, and find that the amounts of taxes, penalties, etc., stated as corrected and as specified in the supplementary pages of this list made by me are due from the individuals, firms, and corporations opposite whose names such amounts are placed, and that the amount chargeable to the collector is as above.

C. R. NASH

Acting Commissioner of Internal Revenue. [97]
Dated at Washington, D. C.
Office of Commissioner of Internal Revenue,
Mar. 14, 1925.

Treasury Department, A S
Internal Revenue Service.
..... March, 1922.

Page No. 0

ASSESSMENT LIST

District Washington, Income Tax, List Corporation Spl #7
(Classification)
March 1925

Old Balance	Date	Debit	Credit	New Balance	Remarks
-------------	------	-------	--------	-------------	---------

0
1
2
3
4
5
6
7
8

BRYSON ROBINSON CORP
WALLA WALLA WASH

2973.54	1919 402204	9
	SEC 274 D	
	OA	
	OL 3/14/25	

MAR 09 C SPL # 7

[98]

[Endorsed]: U. S. Board of Tax Appeals, Div. 15, Docket 22184. Admitted in evidence Jun. 2, 1930. Respondent's Exhibit E.

Internal Revenue Agent

Feb. 15, 1923

Rec'd Seattle Division

It:Ca:Ms.

2506 = W.H.S.

Attach to 1917 return

45 = 502-283

Unaudited. Return. See + Please file.

Seattle, Wash.

Feb. 12, 1923

(Date)

INCOME AND PROFITS TAX WAIVER

In pursuance of the provisions of subdivision (d) of Section 250 of the Revenue Act of 1921, Elmer D. Bryson, of Walla Walla, Wash., and the Commissioner of Internal Revenue, hereby consent to a determination, assessment, and collection of the amount of income, excess-profits, or war-profits taxes due under any return made by or on behalf of the said Bryson-Robison Corporation for the years 1917 under the Revenue Act of 1921, or under prior income, excess-profits, or war-profits tax Acts, or under Section 38 of the Act entitled "An Act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes", approved August 5, 1909, irrespective of any period of limitations.

This waiver will be effective only one year from date of signing.

(BRYSON-ROBISON CORPORATION)

ELMER D. BRYSON

Taxpayer as former Secretary—

Bryson-Robison Corp.

By D. H. BLAIR

Commissioner.

x

x

If this waiver is executed on behalf of a corporation, it must be signed by such officer or officers of the corporation as are empowered under the laws of the State in which the corporation is located to sign for the corporation, in addition to which, the seal, if any, of the corporation must be affixed. [99]

[Endorsed]: U. S. Board of Tax Appeals, Div. 15, Docket 22184. Admitted in evidence Jun. 2, 1930. Resp. Exhibit F.

Trans. to Spec Assess 2-11-24

Internal Revenue Income [illegible]

1924 Feb 12 AM 9 27

Distribution Gen Feb 12 1924

Misscellaneous Section

5

COSPER ACCOUNTING COMPANY

Public Accountants Income Tax Advisers
Offices 202 Central Building
206 Farmers and Merchants Yakima, Washington
Bank Building
Walla Walla, Washington
With
Weatherford Wallace Co.
Dayton, Washington

Walla Walla, Washington

February 7, 1924

Commissioner of Internal Revenue
Washington, D. C.

Dear Sir:

In answer to your letter of recent date: symbols:
IT:CA:Ms,2506,WHs-App, to:

BRYSON ROBISON CORPORATION

c/o Elmer D. Bryson

Walla Walla, Washington

we submit herewith the following appeal, duly
signed by Elmer D. Bryson, former secretary of

the above corporation which is now defunct, as requested by your office.

This appeal is made against the findings as contained in your letter of December 19, 1923 as well as those of the Revenue Agent, as contained in his report covering his examination of this corporation for the years 1917, 1918 and 1919.

The particular items in this report that we take exception to, are the elimination from Invested Capital of lands used in the business and the disallowance as an expense, deduction of officer's salaries.

This organization was a corporation in name only, having been conducted thruout its history, as a partnership—composed of two sheep farmers. Absolutely no corporation records or financial records of any kind were kept at any time, prior to the examination by the Revenue Agent. When payments were made to the Stockholders out of funds on hand, they were marked: "Salaries or Dividends", not as a result of any action taken by the officers or stockholders, in the regular way, but just as two farmers would make payments from a fund in which they were equally interested.

The fact that the land used in this business for the purpose of producing feed and range for the sheep was deeded to the individuals composing the corporation was purely a matter of convenience to them. The corporation did not sell this land to the individuals, no consideration having been given. On the other hand, it was not a withdrawal from

the corporation by the individuals as the land continued to be used in the business and was just as much [100] a factor in producing the income as the sheep from which the income was directly derived.

As a matter of fact, county records show that those sheep were assessed to the two individuals separately and were not assessed to the corporation. If the Examining Officer were then to be consistent, he would also eliminate the sheep from the Invested Capital and if that were done, it would be necessary to eliminate the income from the corporation for the reason that the income was derived from the sheep and the land.

It will be noted that the taxes paid on this land have been taken as an allowable deduction by the Examining Officer in determining net income for all years. This is as it should be and in our opinion further substantiates our contention that the land was a part of the Invested Capital of the Corporation and was used in its business. The mere fact that title was held by individuals would certainly not exclude the property from the corporations investment.

These details are given to show that this corporation was not conducted as a corporation, nor in a business-like manner as corporation business might usually be conducted, but as stated above was treated for all practical purposes as a partnership.

Therefore, if the Department is to be consistent and equitable, we feel that the salaries as set up in

our claim; that is \$5,000.00 for the year 1917—\$10,000.00 for 1918 and \$2,500.00 for 1919 as the corporation operated only a part of the year 1919, as shown by the Examining Officer's report, should be allowed these partners and that the total assets used in the business should be permitted in the Invested Capital.

In addition to this, claim is hereby made for Special Assessment for the year 1917 under Section 210 of that law and under Sections 327 and 328 of the 1918 law for the years 1919 and 1918. In the event that it is necessary and you should so desire, we will be glad to set up these claims for Special Assessment separate and apart from this protest.

The Bryson-Robison Corporation was incorporated under the laws of the State of Washington in October 1916 but did not commence operations until 1917. It became defunct in June of 1919 and was stricken from the Corporation rolls at that time.

This protest and appeal is not taken for the purpose of delay.

Respectfully submitted,

BRYSON ROBISON CORPORATION

By Elmer D. Bryson, Formerly Sec.

EM:s

[101]

Subscribed and sworn to before me this the 7th day of February 1924.

[Seal]

ESTHER B. MURRAY

Notary Public in and for the State of Washington,
Residing in Walla Walla. [102]

[Endorsed]: U. S. Board of Tax Appeals, Div. 15, Docket 22184. Admitted in evidence Jun 2, 1930. Respondent's Exhibit G.

Internal Revenue Agent

Jul 1, 1924

Rec'd. Seattle Division

Walla Walla, Washington,

June 30, 1924.

Internal Revenue Agent in Charge,

Seattle Division,

Seattle, Washington.

Sir:—

There is hereby submitted and filed objections and protest to the report to the Commissioner of Internal Revenue from your office, bearing file identifications 4318-W IT:CA-2558-10 Bryson-Robison Corporation.

I

The report adopts the report of Internal Revenue Agent Frank Johnson, eliminating from deductions for invested capital the corporation's entire investment in real estate simply because the bare legal title thereto was transferred to Lester Robison and Elmer D. Bryson. This action is arbitrary and is not justified by the actual facts. This land remained the property of the corporation until June 4, 1919. While record holding of title is prima facie evidence of ownership it is in no possible sense conclusive. Every person in interest in this matter concedes as a matter of absolute fact that this land belonged to the corporation except the

Internal Revenue agents. And as invested capital clearly should be clearly taken into account in arriving at the actual deductions to be made in computing the amount of tax. Taxes on the real estate have been passed by you as proper deductions.

If you are going to abide by your conclusion based solely upon the record title to the land you cannot consistently stop there but you must likewise eliminate from the corporate assets the sheep and livestock, which, although actually the property of the corporation, never was of record ownership by the corporation and was assessed and handled of record as the individual properties of Robison and Bryson. When you carry it to this logical conclusion the corporation had no income whatsoever as the total income was from the live stock investment.

II.

There is not a corporation carrying on business of the volume and character this corporation was, requiring the close personal attention, skill and services of a managing head, but that pays a substantial salary for that service. A deduction for salary was claimed for Elmer D. Bryson of \$5000.00 per year, the corporation by whom he was employed was satisfied that his service was worth that amount and paid it to him, [illegible] it is clearly an item which should be allowed as a deduction. [103]

Objections and exceptions and protest have heretofore been filed in this matter and all of the matters and things alleged and set up as objections and protests to your report are hereby, by reference, incorporated in and made a part of this protest and

these objections the same as if annexed hereto or incorporated herein.

Respectfully submitted,
BRYSON-ROBISON CORPORATION,
Elmer D. Bryson
Formerly Secretary. [104]

[Endorsed]: U. S. Board of Tax Appeals, Div. 15, Docket 22184. Admitted in evidence Jun 2, 1930. Respondent's Exhibit H.

[Stamp illegible]

605 Boyer Avenue,
Walla Walla, Washington.
April 18, 1924.

COLLECTOR OF INTERNAL REVENUE,
Tacoma, Washington.

Sir

Re: Bryson-Robison Corporation.

Yours of the 7th inst. is just this day received. This is the busy season in the sheep business and the writer just today returned to this city from shearing operations,—which fact alone accounts for the seeming delay in granting the attention requested in your letter.

You will find herein the claim for abatement, as suggested, and I am very sorry this delay has occurred, but it was beyond my control as I was not in and could not attend to it at the ranch, and I have received your letter.

Very truly,
ELMER D. BRYSON
Formerly Secretary of the
Bryson-Robison Corporation. [105]

[Endorsed]: U. S. Board of Tax Appeals, Div. 15, Docket 22184. Admitted in evidence Jun 2, 1930. Respondent's Exhibit H.

EWB

378

Copy

NES 4-24-24

Dup cl-orig 4-19-24

Collector's Notation

District

Account number

Date received

Stamp here

Collector of Internal Revenue

Treasury Department

Internal Revenue Service

Form 843—Jan., 1922

Comptroller General U. S.

January 18, 1922

CLAIM FOR

- ☒ Abatement of Tax Assessed
- ☐ Credit Against Outstanding Assessments
- ☐ Refund of Taxes Illegally collected
- ☐ Refund of Amounts Paid for Stamps

Used in Error or Excess

[Notice to Collector—Collector must indicate in block above the kind of claim, except in Income Tax cases.]

[Important—File with Collector of Internal Revenue where assessment was made. Not acceptable unless completely filled in.]

[Date received by Administrative Unit—Stamp here.]

State of Washington

County of Walla Walla—ss.

[Type or Print]

BRYSON-ROBISON CORPORATION

(Name of taxpayer or purchaser of stamps.)

Walla Walla, Washington

(Residence—give street and number as well as
city or town and State)

Same

1916-1917

(Business address.)

This deponent, being duly sworn according to law, deposes and says that this statement is made on behalf of the taxpayer named, and that the facts given below with reference to said statement are true and complete:

Period	Year
From: October	1916
To: June 4	1919

1. Business in which engaged
Sheep and Livestock

2. Character of assessment or tax
Additional Income

(State for or upon what the tax was assessed
or the stamps affixed.)

3. Amount of assessment or stamps
purchased\$.....

4. Reduction of Tax Liability re-
quested (Income and Profits Tax)...\$.....

5. Amount to be abated\$ 5896.86^v

6. Amount to be refunded (or such
greater amount as is legally re-
fundable)\$.....

7. Dates of payment (see Collector's receipts or indorsements of cancelled checks)
(If statement covers income tax liability, items 8-11, inclusive, must be answered.)
8. District in which return (if any) was filed Washington
9. District in which unpaid assessment appears Washington
10. Amount of overpayment claimed as credit\$.....
11. Unpaid assessment against which credit is asked; period from.....to.....\$.....

Deponents verily believes that this application should be allowed for the following reasons:

This corporation has had no notice of nor has it knowledge of the basis of computation of the above proposed additional tax.

The same is objected to and it's abatement is sought on the grounds and for the reasons assigned and set up in the company claim or specification of objections to the proposed assessment at and about the time of the appeal, reference to which is hereby made and the same, and all thereof, is hereby by reference made a part hereof as fully to all intents and purposes as if herein incorporated.

The levy and basis of arriving thereat, if in conformity with the report to the Commissioner by the Field Auditor is unjust, inequitable and based on false and erroneous assumptions of fact not borne out by the actual, proven facts involved.

This notice, accompanying this blank, was dated at Washington, D. C. March 20th but was received but the 1st of this month, and is being returned within ten days from receipt thereof.

(Attach additional sheets if necessary.)

Signed: ELMER D. BRYSON √ Q2

Formerly Secretary of the

Bryson-Robison Corporation, Inc.

Apr. 16, 1924 √

Sworn to and subscribed before me this 5th day of April, 1924.

[Seal]

HERBERT C. BRYSON

Notary Public for Washington, residing at Walla Walla, in said state.

(Title.)

(This affidavit may be sworn to before a Deputy Collector of Internal Revenue or Revenue Agent without charge.) [106]

To Whom Sold or Issued.	Kind.	Number.	Denomination.	Date of sale or issue.	Amount.	Serial number.	If special tax stamp, state: Period commencing
				\$			
<div style="display: flex; justify-content: space-between;"> <div>Collector.....</div> <div>District.....</div> </div>							
<div style="display: flex; justify-content: space-between;"> <div>Schedule Number</div> <div>District</div> </div>							
<div style="display: flex; justify-content: space-between;"> <div>Allowed or Rejected Number.....</div> <div>(Nature of tax.)</div> </div>							
<div style="display: flex; justify-content: space-between;"> <div>Claimant</div> <div>Examined and submitted for action</div> </div>							
<div style="display: flex; justify-content: space-between;"> <div>Address</div> <div>Committee on Claims</div> </div>							
<div style="display: flex; justify-content: space-between;"> <div>Amount claimed</div> <div>Amount allowed</div> </div>							
<div style="display: flex; justify-content: space-between;"> <div>Amount rejected</div> <div>Claim examined by —</div> </div>							
<div style="display: flex; justify-content: space-between;"> <div>Claim approved by—</div> <div>Chief of Division.</div> </div>							
<div style="display: flex; justify-content: space-between;"> <div>Schedule No.</div> <div>Claim No.</div> </div>							

[107]

CC

1924 Apr 11 AM 10 49

Internal Revenue

Walla Walla, Washington

Central Mail Room

April 5, 1924.

Commissioner of Internal Revenue,
Washington D. C.

Sir:—

RE your IT:CA 2558-WHS

Bryson-Robison Corporation

Your letter of the 20th ult was received by the writer on about the 1st. Inst. and due to the fact of my being very busy in the country was unable to get in to make out a claim for abatement of this proposed additional tax before now, and am doing so, however, within 10 days from receipt thereof.

I have had not the slightest information as to the basis of computation of the amount arrived at, and know and honestly feel a rank injustice is being perpetrated by the attempted imposition of the additional tax. You will find herein claim for abatement, and if for any reason the same is not in proper form I will request the courtesy of being so advised that I may have the same placed in proper form, to the end that it be fairly considered on it's merits.

Very truly,

ELMER D. BRYSON

Formerly Secretary of

Bryson-Robison Corporation. [108]

25 - Rec'd. - 61

(1283)

Apr. 23, 1924

Dist. - Washington

Apr. 16, 1924

IT:R:CC

Collector of Internal Revenue, Wash. District.

The attached claim is returned to you with the request that it be corrected as checked below, so that it will be filed in accordance with the provisions of law and other requirements, as indicated.

- ✓ Claim was received in this office direct from the taxpayer or through your office without being stamped as to date of receipt.
- ☐ Claim should be sworn to before a Deputy Collector, notary public, or other officer authorized to administer oaths. See Articles 1032, 1034, and 1036 of Regulations 62.
- ☐ Claim should be signed by the claimant or his agent. If signed by an officer of a corporation, title of such officer should be shown. If signed by an agent of the taxpayer, a power of attorney must accompany the claim. In the case of the taxpayer's death, certified copies of the letters of administration, letters testamentary, or other similar evidence must be annexed to the claim, to show the authority of the administrator or executor. See Article 1036 of Regulations 62 and A&C Mim. 3097 (the latter relating also to trustees, guardians, and receivers).
- ☐ The basis of the claim must be fully stated. See Articles 1032, 1034, and 1036 of Regulations 62.
- ☐ The year involved and the amount claimed must

be stated. Action may be expedited by filing separate claims for each year.

☐ Claim should be submitted on Form 843. See Article 1031 (a) of Regulations 62.

Paragraph.....of A&C Mim.....
not complied with.

Respectfully,
J. G. Bright,
Deputy Commissioner.
By W. T. Sherwood
Head, Records Division. [109]

[Endorsed]: U. S. Board of Tax Appeals, Div. 15, Docket 22184. Admitted in evidence Jun. 2, 1930. Respondent's Exhibit I.

EWB

Mar-24-4-17

70988

[Date received by Administrative Unit, stamp here]

Recorded [illegible] May 6, 1924. Claims Control Section.

378

Wash 1916-19

[Received—Collector of Internal Revenue, District of Washington, Apr. 19, 1924, Tacoma Office.]
NES 4-21-24—5 8/6.86.

Collector's Notation

District—Washington

Account number—Mar. 04 Spl 17-1924

Date Received—

Stamp here—Burns Poe

Collector of Internal Revenue.

Treasury Department
Internal Revenue Service
Form 843—Jan., 1922
Comptroller General U S.
January 18, 1922

CLAIM FOR

- ☒ Abatement of Tax Assessed
- ☐ Credit Against Outstanding Assessments
- ☐ Refund of Taxes Illegally Collected
- ☐ Refund of Amounts Paid for Stamps

Used in Error or Excess

[Notice to Collector—Collector must indicate in block above the kind of claim, except in Income Tax cases.]

[Important—File with Collector of Internal Revenue where assessment was made. Not acceptable unless completely filled in.]

State of Washington,
County of Walla Walla—ss.

[Type or Print]

BRYSON-ROBISON CORPORATION

(Name of taxpayer or purchaser of stamps.)

Walla Walla, Washington

(Residence—give street and number as well as city
or town and State)

Same

(Business address)

This deponent, being duly sworn according to law, deposes and says that this statement is made on behalf of the taxpayer named, and that the facts

given below with reference to said statement are true and complete:

Period	Year
From: Oct.	1916
To: June 4	1919

1. Business in which engaged Sheep Raising
2. Character of assessment or tax
(State for or upon what the tax was assessed or the stamps affixed.)
3. Amount of assessment or stamps purchased\$.....
4. Reduction of Tax Liability requested (Income and Profits Tax) \$.....
5. Amount to be abated\$ 5896.86^v
6. Amount to be refunded (or such greater amount as is legally refundable)\$.....
7. Dates of payment (see Collector's receipts or indorsements of canceled checks)
(If statement covers income tax liability, items 8-11, inclusive, must be answered.)
8. District in which return (if any) was filed Tacoma, Washington
9. District in which unpaid assessment appears Tacoma, Washington
10. Amount of overpayment claimed as credit\$.....
11. Unpaid assessment against which credit is asked; period from.....to.....\$.....

Deponent verily believes that this application should be allowed for the following reasons:

Said tax, levied as "additional 1917 Income Tax", is inequitable and unjust, based, as it is on grossly erroneous assumptions of fact by the Auditor; all the actual taxable income for the year 1917 was duly, regularly and properly paid; the basis of arriving at this so-called "additional tax" has never been communicated to the tax-payer. The reasons are also more fully and specifically set out in the exceptions to the Auditor's report on file with the Commissioner of Internal Revenue, and are by reference included herein as fully, to all intents and purposes as if herein set out. No allowance as invested capital is made for large values of real estate claimed to have been in fact owned by the company.

A matter of common fairness would impel the corporation being informed as to the basis of determining this outlandish additional tax, and an opportunity afforded to explain any errors that must exist in the computation, as the tax is grossly wrong.

(Attach additional sheets if necessary.)

Signed: ELMER D. BRYSON

Formerly Secretary of

Bryson-Robison Corporation.

Sworn to and subscribed before me this 18th day of April, 1924.

[Seal]

HERBERT C. BRYSON

Notary Public for Washington, residing at Walla Walla, in said state. (Title)

(This affidavit may be sworn to before a Deputy Collector of Internal Revenue or Revenue Agent

Schedule No. _____ Claim No. _____
 Schedule No. _____ Claim No. _____

CERTIFICATES

I certify that an examination of the records of the Bureau of Internal Revenue shows the following facts as to the assessment and payment of the tax:

Name of Taxpayer.	Character of assessment and period covered.	List.	Year.	Month.	Page.	Line.	Amount	Date Paid	District in which paid.
							\$		

Collector of Internal Revenue

Assessment Clerk, Commissioner's Office

I certify that the records of my office show the following facts as to the purchase of stamps:

[illegible]

[Endorsed]: U. S. Board of Tax Appeals. Div. 15. Docket 22184. Admitted in evidence Jun. 2, 1930. Petitioner's Exhibit 1.

99941

THE GRANTORS Lester L. Robison and Elsie Robison, husband and wife, and Bryson-Robison Corporation, a Washington Corporation, for and in consideration of the sum of Ten Dollars and other sufficient valuable considerations in hand paid, convey and warrant to Elmer D. Bryson, the following described real estate in Walla Walla County, Washington, to-wit:

All of sections Three, five, Nine and Eleven, the Northwest quarter of Section Two; The northeast quarter of section four; All of section Fifteen except the southeast quarter thereof; All of the North half of section Fourteen excepting the Southeast quarter of the Northeast quarter thereof; All of section Seventeen except the South half of the Southeast quarter thereof; All of section twenty one lying north of the Oregon-Washington Railroad & Navigation Company's right of way as now laid out and located; All of the West-half Section Twenty-two lying North of said railroad right of way; Also the watering place in said section twenty-two south of said right-of-way as conveyed by George E. Lambdin to Bryson-Robison Corporation. All of the aforesaid lands being in Township seven North of Range 32 E.W.M., Also, All of Sections Thirteen and twenty five in Township Eight North Range 31 E.

W.M., ALSO, All of Sections Seventeen, Nineteen, Twenty-one, Twenty-five, Twenty-seven, Twenty-nine, Thirty-one, Thirty-three, Thirty-five; All of Section Eighteen excepting the southwest quarter thereof; The Northwest quarter, and South half of South half of Section twenty; the Southwest quarter of Section Twenty-two; the west half of the west half of Section Twenty-eight; the Southeast quarter of Section thirty-two; the northwest quarter of the southwest quarter of the Northeast quarter of Section Thirty-four, the last described tract being the 10 acres on which the drilled well is located. All of the lands described in this paragraph being in Township Eight North of Range 32 E.W.M. Dated this 4th day of June A. D. 1919.

BRYSON-ROBISON CORPORATION Inc.,

By LESTER L. ROBISON

President.

By ELMER D. BRYSON

Secretary.

L. L. ROBISON [Seal]

ELSIE ROBISON [Seal]

Forty Dollars United States

Internal Revenue Stamps Cancelled

\$40.00

BRYSON-ROBISON CORPORATION,

Incorporated Oct. 13, 1916.

Walla Walla, Wash.

Attest:

Corporate Seal

State of Washington,
Walla Walla County.—ss.

I, the undersigned, a Notary Public in and for said County and State do hereby certify that on June 4th A. D. 1919, personally appeared before me Lester L. Robison and Elsie Robison, his wife, and L. L. Robison as President and Elmer D. Bryson, as Secretary, respectively, of Bryson-Robison Corporation and acknowledged to me that they and each of them executed the foregoing instrument freely and voluntarily for the uses and purposes therein mentioned; And the said L. L. Robison and Elmer D. Bryson, as such president and secretary respectively of the said corporation acknowledged to me that they executed the instrument as the free and voluntary act of the Corporation and each on oath stated to me that the seal affixed is the corporate seal of the Bryson-Robison Corporation by them thereunto lawfully and authoritatively affixed.

IN TESTIMONY THEREOF I have hereunto set my hand and official seal the date last herein above written.

MARVIN EVANS

Notary Public for Washington
Residing at Walla Walla therein.

Marvin Evans

Notary Public

Commission expires Mar. 26, 1923

State of Washington [112]

Filed for Record June 5th A. D. 1919, at 1:10
P. M., By H. C. Bryson.

GUY ALLEN TURNER

County Auditor

Book 146, page 333 [113]

AUDITOR'S CERTIFICATE OF
CERTIFIED COPY

State of Washington,
County of Walla Walla—ss.

I, Jim L. Reavis do hereby certify that I am the Auditor of Walla Walla County, Washington, and am the legal custodian of such records as are by law required to be kept in the Auditor's office.

That the foregoing is a true and correct copy and transcript of a Deed from L. L. Robison et ux et al to Elmer D. Bryson et ux which was on the 5th day of June, 1919 at the hour of 1 o'clock and 10 minutes P. M., of said day, filed for record in the aforesaid office, and is now of record in said office, on Page 333 Book 146 of Deed Records of Walla Walla County, Washington.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal this 20th day of May at the hour of 3:45 o'clock and..... minutes P. M.

[Seal]

JIM L. REAVIS,

Auditor of Walla Walla, County, Washington

By Frances Lux,

Deputy [114]

CERTIFICATE

United States of America,
State of Washington,
County of Walla Walla.—ss.

I, John L. Sharpstein, sole presiding judge of the Superior Court for Walla Walla County, Washington, the same being a court of record and having an official seal. do hereby certify that the attestation of the annexed document by Jim L. Reavis, County Auditor for Walla Walla County, Washington, is in due form and by the proper officers, and that said Auditor is the official custodian of the original records and files from which said certified copies would be prepared.

JOHN L. SHARPSTEIN,

Superior Judge.

State of Washington,
Walla Walla County.—ss.

I, Walter Kimmerly, County Clerk and ex officio Clerk of the Superior Court for said county and state, do hereby certify that John L. Sharpstein, who executed the foregoing certificate is duly commissioned and qualified as the sole presiding judge of the Superior Court of the State of Washington for Walla Walla County, and that said court is a court of record with an official seal.

WITNESS by hand and the seal of said Superior Court at Walla Walla, Washington, May 20, 1930.

[Seal]

WALTER KIMMERLY,

County Clerk.

By

Deputy [115]

[Endorsed]: U. S. Board of Tax Appeals. Div. 15. Docket 22184. Admitted in Evidence Jun. 2, 1930. Petitioner's Exhibit 2.

THIS INDENTURE, Made the fourth day of June in the year of our Lord one thousand nine hundred and Nineteen between Elmer D. Bryson and Charlotte M. Bryson, his wife, parties of the first part, and L. L. Robison, party of the second part,

WITNESSETH, That the said part..... of the first part, for and in consideration of the sum of Seventy thousand and no/100 Dollars, lawful money of the United States, to them in hand paid, do grant, bargain, sell, convey and confirm unto the said party of the second part, and to his heirs, successors and assigns forever, all those certain pieces or parcels of Real Estate situated in the County of Walla Walla and State of Washington, and more particularly described as follows, to-wit:

All of sections three, five, nine and eleven; the northwest quarter of section two; the northeast quarter of section four; all of section fifteen except the southeast quarter thereof; all of the north half of section fourteen excepting the southeast quarter of the northeast quarter thereof; all of section seventeen except the south half of the southeast quarter thereof; all of section twenty one lying north of the Right of way of the Oregon Washington Railroad & Navigation Company's; all of the west half of section 22 lying north of said O-W. R. & N. Company's right of way; also the watering place in said section 22 lying south of the said railroad right of way

as conveyed by George E. Lambdin to Bryson Robison corporation, all the above lands being in Township 7 N. R. 32 E. W. M. also all of sections thirteen and twenty five in Township 8 N. R. 31 E. W. M.

Also, all the following described lands located in Township 8 N. R. 32 EWM., to-wit:

All of sections seventeen, nineteen, twenty one, twenty five, twenty seven, twenty nine, thirty one, thirty three, thirty five, and all of section eighteen except the southwest quarter thereof; also, the northwest quarter, the south half of the south half of section twenty; the southwest quarter of section twenty two; the west half of the west half of section twenty eight; the southeast quarter of section thirty two; the northwest quarter of southwest quarter of Northeast quarter of section thirty four,—the latter being the 10 acre tract on which the drilled well is located.

together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, together with the rents, issues and profits of said premises, and the parties of the first part, for themselves and their heirs and assigns, covenant and agree that they are the owners of said Real Estate and have fee simple title thereunto.

This conveyance is intended as a MORTGAGE to secure the payment of the sum of Seventy thousand no-100 Dollars, which sum is represented by one promissory note of even date herewith, substantially of the tenor and effect following, to-wit:

COPY OF NOTE

\$70,000.00

Walla Walla, Washington, June 4, 1919.

October 15th, 1921, on or before, after date, without grace, for value received, I promise to pay L. L. Robison or order, at the Baker Boyer National Bank of Walla Walla, Washington Seventy Thousand Dollars in gold coin, with interest thereon in like coin from date until paid at the rate of six per cent per annum, interest payable [116] annually, if not so paid, to draw interest until paid, at the same rate as the principal. In case action is brought to collect this note, I agree that the venue of such action may be laid in Walla Walla County, Washington, and that the action may be there maintained without regard to the residence of the defendants, and that in any action brought hereupon I will pay such sum as the court may adjudge reasonable as attorneys fees. Any part payable at any time.

ELMER D. BRYSON

CHARLOTTE M. BRYSON

(\$14.00 Internal Revenue stamps affixed and cancelled).

Said note is executed by the said parties of the first part, payable to the said party of the second part at The Baker Boyer National Bank in Walla Walla, Wash., in U. S. Gold Coin, together with interest thereon in like coin, from date until paid at the rate of 6 per cent. per annum, payable annually, and if not so paid, the interest to draw interest at the same rate as the principal, or if not so paid the whole indebtedness hereby secured may,

at the option of the holder, become at once due and payable, and further provide for the payment of such sum as the Court may adjudge reasonable as attorney's fees in case action or suit be brought to collect the whole or any part of said note, and in case of foreclosure, that if the mortgaged property shall not upon sale realize sufficient to pay said principal and interest in full, together with the costs and expenses of such foreclosure, a deficiency judgment may be rendered for such unpaid balance.

And mortgagor further covenant and agree to keep all buildings on said premises fully insured at all times against loss or damage by fire or other elements, in some safe and reliable insurance company, loss, if any, payable to second part..... or assigns.

And the parties of the first part covenant and agree to pay said note according to the terms thereof, and further covenant and agree that in the event of the foreclosure of this mortgage and the sale of the mortgaged property aforesaid, there shall not be realized sufficient to pay the judgment, principal, interest and costs, a deficiency judgment may be rendered against them for any unpaid balance, and that execution may be issued for the collection thereof and levied upon any property belonging to the makers of this mortgage not exempt from execution. And the parties of the first part further covenant and agree to pay all taxes or other assessments that may be assessed or levied on the said mortgaged premises before the same become delinquent, and to pay all taxes or other assessments that may here-

after be assessed or levied on this mortgage or the indebtedness secured thereby, and in case of failure to so pay said taxes or other assessments or any part thereof the party of the second part may pay the same and add the sum so paid to the demand hereby secured, and to bear the same rate of interest; and these presents shall be void if all such payments be made. But in case default be made in the payment of principal or interest, as in said note provided, or the parties of the first part shall fail to keep and perform each and every covenant and agreement herein contained, on their part, then in either event the said part..... of the second part his heirs, successors or assigns is hereby empowered to foreclose this mortgage and sell the said mortgaged premises, with all and every the appurtenances, or any part thereof, in the manner prescribed by law; and out of the money arising from such sale to retain the said principal and all interest up to the time of such sale, and all sums paid for taxes or other assessments on said premises, or said note or mortgage, together with the costs and charges of such foreclosure and of making such sale, and such additional sum as the Court may adjudge reasonable as attorney's fees in such action or suit, which the parties of the first part, agree to pay in case action or suit is instituted to foreclose this mortgage; and the overplus, if any there be, shall be paid by the party making such sale, on demand, to the said parties of the first part their heirs or assigns. [117]

IN WITNESS WHEREOF, The said parties of

the first part have hereunto set their hands and seals
the day and year first above written.

ELMER D. BRYSON (Seal)

CHARLOTTE M. BRYSON (Seal)

Signed, sealed and delivered in presence of
HERBERT C. BRYSON.

State of Washington,
County of Walla Walla—ss.

I, the undersigned, a Notary Public in and for the
State and County aforesaid, do hereby certify that
on this 4th day of June A. D. Nineteen Hundred
and Nineteen personally appeared before me Elmer
D. Bryson and Charlotte M. Bryson, husband and
wife, whose name *is* subscribed to the foregoing in-
strument, to me personally known to be the same
persons described in and who executed the said in-
strument, and acknowledged to me that they each
signed, sealed and executed the same freely and
voluntarily for the uses and purposes therein ex-
pressed.

IN TESTIMONY WHEREOF, I have hereunto
set my hand and affixed my official seal this the day
and year in the certificate above written.

[Seal] HERBERT C. BRYSON,

Notary Public for the State of Wash-
ington, residing at Walla Walla, Wash.

Notary Public

Herbert C. Bryson

Commission expires

Dec. 20, 1920.

State of Washington

Filed for record this 10th day of June, 1919 at
1:40 P. M. at the request of Evans and Watson.

GUY ALLEN TURNER,
County Auditor.

Vol. 114, page 4 [118]

CERTIFICATE

United States of America,
State of Washington,
County of Walla Walla.—ss.

I, John L. Sharpstein, sole presiding Judge of
the Superior Court for Walla Walla County, Wash-
ington, the same being a court of record and having
an official seal, do hereby certify that the attestation
of the annexed document by Jim L. Reavis, County
Auditor for Walla Walla County, Washington, is in
due form and by the proper officers, and that said
Auditor is the official custodian of the original rec-
ords and files from which said certified copies would
be prepared.

JOHN L. SHARPSTEIN,
Superior Judge.

State of Washington,
Walla Walla County.—ss.

I, Walter Kimmerly, County Clerk and ex officio
Clerk of the Superior Court for said county and
state, do hereby certify that John L. Sharpstein,
who executed the foregoing certificate is duly com-
missioned and qualified as the sole presiding judge
of the Superior Court of the State of Washington

for Walla Walla County, and that said court is a court of record with an official seal.

WITNESS my hand and the seal of said Superior Court at Walla Walla, Washington, May 20, 1930.

[Seal]

WALTER KIMMERLY,

County Clerk

By

Deputy [119]

State of Washington,

County of Walla Walla.—ss.

I, Jim L. Reavis, do hereby certify that I am the duly elected, qualified and acting Auditor of Walla Walla County, Washington, and am the legal custodian of such records *are* are by law required to be kept in the Auditor's office.

I certify that the foregoing is a true and correct copy and transcript of a real estate mortgage from Elmer D. Bryson et ux to L. L. Robison which was on June 10, 1919, at 1:40 p. m. filed for record in the aforesaid office, and is now of record in my office on page 4, Vol. 114 of Real Estate mortgage records for Walla Walla County, Washington.

I further certify that said real estate mortgage bears a marginal release, written on the margin of the official record thereof by L. L. Robison, mortgagee, dated Aug. 5, 1921, showing the same to be fully paid, satisfied, released and discharged of record, as authorized by § 11604 of Remington's statutes of Washington.

IN TESTIMONY WHEREOF I have hereunto

set my hand and affixed my official seal at Walla Walla, Washington, May 20, 1930.

JIM L. REAVIS

Auditor of Walla Walla County,
Washington.

By

Deputy. [120]

[Endorsed]: U. S. Board of Tax Appeals. Div. 15.
Docket 22184. Admitted in Evidence Jun. 2, 1930.
Petitioner's Exhibit 3.

PROOF OF PUBLICATION

13959

State of Washington,
County of Walla Walla.—ss.

E. G. Robb, being first duly sworn upon oath, deposes and says: I am the publisher of the Walla Walla Union, a daily newspaper. which is now, and for the last past nine months and more has been established, printed, published and circulated continuously as a daily newspaper in the City of Walla Walla, in the county and state aforesaid, and of general circulation in said city, county and state.

The Notice, of which the one hereto attached is a full, true and correct copy, was published in said newspaper once each week for 8 consecutive weeks, being published therein 8 times, the first publication being on the 22nd day of March, 1920, and the last publication being on the 10th day of May, 1920.

Said notice was published in the regular and entire issue of said newspaper during the said period and times of publication and was published in said newspaper proper and not in any supplement thereof.

E. G. ROBB

Sworn to and subscribed before me this 10th day of May, 1920.

[Seal]

D. W. IFFT

Notary Public in and for the State of Washington,
Residing at Walla Walla, Washington.

Filed May 14, 1920.

E. J. BRUNTON, Clerk.

By C. R. Portch,

Deputy. [121]

NOTICE OF HEARING

In the Superior Court of the State of Washington
In and for the County of Walla Walla.

In the Matter of the Dissolution
of

The Bryson-Robinson Corporation

Notice is hereby given that pursuant to a resolution of the stockholders of the Bryson Robinson Corporation at a meeting held on the 22nd day of April, 1919, called for the purpose of dissolving and disincorporating said corporation, adopted by a unanimous vote of all of the stock of said corporation to dissolve and disincorporate the same, an application has been filed in the Superior Court of the State of Washington, for Walla Walla County

to dissolve and disincorporate said corporation and notice is hereby given that on Monday the 18th day of May, 1920, at 10 o'clock A. M. on said day at the court room of the Superior Court of the state of Washington, for Walla Walla County, hearing upon said application will be had and the Court will proceed to dissolve and disincorporate said corporation if it shall appear that the said corporation has taken the necessary preliminary steps and obtained the necessary vote to dissolve itself and that all claims against said corporation are discharged.

Witness the Hon. Edward C. Mills, Judge of the said Superior Court, and the seal of said Court hereto affixed this 19th day of March, 1920.

[Seal of the

E. J. BRUNTON

Superior Court]

Clerk of the Superior Court

By C. R. Portch, Deputy.

3—22-29; 4—5-12-19-26; 5—3-10. [122]

NOTICE OF HEARING

In the Superior Court of the State of Washington
In and for the County of Walla Walla.

No. 13959

In the Matter of the Dissolution
of

The Bryson-Robinson Corporation

NOTICE IS HEREBY GIVEN that pursuant to a resolution of the stockholders of the Bryson-Robinson Corporation at a meeting held on the 22nd day of April, 1919, called for the purpose of dissolving and disincorporating said corporation, adopted by a

unanimous vote of all of the stock of said corporation to dissolve and disincorporate the same, an application has been filed in the Superior Court of the State of Washington, for Walla Walla County to dissolve and disincorporate said corporation and notice is hereby given that on Monday the 17th day of May, 1920, at 10 o'clock A. M. on said day at the Court Room of the Superior Court of the State of Washington, for Walla Walla County, hearing upon said application will be had and the Court will proceed to dissolve and disincorporate said corporation if it shall appear that the said corporation has taken the necessary preliminary steps and obtained the necessary vote to dissolve itself and that all claims against said corporation are discharged.

WITNESS the Hon. Edward C. Mills, Judge of said Superior Court, and the seal of said Court hereto affixed this 19th day of March, 1920.

[Seal]

E. J. BRUNTON

Clerk of Superior Court

By C. R. Portch

Deputy.

Filed Mar. 20, 1920.

E. J. BRUNTON, Clerk
by C. R. Portch,

Deputy. [123]

NOTICE OF HEARING.

In the Superior Court of the State of Washington
In and for the County of Walla Walla

In the Matter of the Dissolution
of

The Bryson-Robinson Corporation.

NOTICE IS HEREBY GIVEN that pursuant to a resolution of the stockholders of the Bryson-Robinson Corporation at a meeting held on the 22nd day of April, 1919, called for the purpose of dissolving and disincorporating said corporation, adopted by a unanimous vote of all of the stock of said corporation to dissolved and disincorporate the same, an application has been filed in the Superior Court of the State of Washington, for Walla Walla County to dissolve and disincorporate said corporation and notice is hereby given that on the 20th day of October, 1919, at 10 oclock A. M. on said day at the Court Room of the Superior Court of the State of Washington, for Walla Walla County, hearing upon said application will be had and the Court will proceed to dissolve and disincorporate said corporation if it shall appear that the said corporation has taken the necessary preliminary steps and obtained the necessary vote to dissolve itself and that all claims against said corporation are discharged.

WITNESS, the Hon. Edward C. Mills Judge of said Superior Court, and the seal of said Court

hereto affixed this 24th day of Aug. 1919.

[Seal]

E. J. BRUNTON

Clerk of Superior Court.

By C. R. Portch,

Deputy.

Filed Aug. 24, 1919.

E. J. BRUNTON, Clerk

By C. R. Portch,

Deputy. [124]

PETITION.

13959

In the Superior Court of the State of Washington
for Walla Walla County.

In the Matter of the Dissolution of the
Bryson-Robison Corporation.

To the Honorable Edward C. Mills, Judge of the
Above Entitled Court:

The petition of the Bryson-Robison corporation
respectfully shows:

I.

That the Bryson-Robison Corporation is a corporation duly organized and existing under the laws of the State of Washington, with its principal place of business at Walla Walla, Washington.

II.

That at a meeting of the stockholders of said corporation held on the 22d day of April, 1919, called for the purpose of dissolving and disincorporating

said corporation, it was decided by vote of two-thirds of all the stockholders of said corporation, to-wit: by a unanimous vote of all of said stockholders to dissolve and disincorporate said corporation. That at the said meeting the following resolutions were adopted by the stockholders of said corporation, to-wit:

“BE IT RESOLVED by unanimous vote of the stockholders of the Bryson-Robison Corporation called for the purposes of this resolution that said corporation dissolve and disincorporate, and

BE IT FURTHER RESOLVED that the officers of said corporation be and they hereby are authorized and directed to take the necessary legal steps to disincorporate and dissolve said corporation.

III.

That a certificate duly signed by the President, attested by the Secretary under the seal of the corporation of the minutes and call of said meeting is hereto annexed and marked Exhibit A, and adopted and made a part of this petition. [125]

WHEREFORE Petitioner prays that notice of this application be given by the Clerk of this Court as provided by law and that at the time and place appointed in such notice or at any time to which such hearing may be postponed, an order may be entered declaring the said corporation dissolved and that such other and further order may be made as is meet in the premises.

GOSE & CROWE,

Attorneys for Petitioner.

State of Washington,
County of Walla Walla—ss.

I, Elmer D. Bryson, being first duly sworn on oath say: I am Secretary-Treasurer of the Bryson-Robison Corporation, the petitioner above named; I have read the foregoing petition, know the contents thereof and believe the same to be true.

ELMER D. BRYSON.

Subscribed and sworn to before me this 22d day of April, 1919.

W. F. CROWE,

Notary Public.

Filed in the office of the Clerk of the Superior Court this 24 day of April, 1919.

E. J. Brunton, Clerk

By C. R. Portch deputy. [126]

In the Superior Court of the State of Washington
for the County of Walla Walla.

State of Washington,
County of Walla Walla—ss.

I, Walter Kimmerly, County Clerk of the County of Walla Walla, State of Washington, and ex officio Clerk of the Superior Court of the State of Washington for Walla Walla County, do hereby certify that the within and foregoing are full, true and correct copies of the originals, and of the whole thereof as the same are now on file and of record in the within entitled action in my office and custody.

I further certify that I have carefully examined all of the records and files of said court in the within entitled action and therefrom certify that neither the Commissioner of Internal Revenue, the Collector of Internal Revenue, nor any officer or agent of either of them, nor any other person, firm or corporation, at any time or at all filed in said action or proceeding any objection of any character to the dissolution of said corporation as sought in the petition on file in my office.

IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of said Superior Court May 21st, 1930.

[Seal]

WALTER KIMMERLY,

County Clerk.

By EDNA BATES,

Deputy.

State of Washington,
County of Walla Walla—ss.

I, John L. Sharpstein, Judge of the Superior Court of the State of Washington, for Walla Walla County, do hereby certify that Walter Kimmerly, whose name is subscribed to the preceding exemplification, is the County Clerk of Walla Walla County and ex-officio Clerk of the Superior Court of said County, and that full faith and credit are due to his official acts.

I further certify that the seal affixed to the exemplification is the seal of our said Superior Court,

and that the attestation thereof is in due form and according to the form of attestation in this State.

JOHN L. SHARPSTEIN,

Judge of the Superior Court.

Dated at Walla Walla, Washington, this 21st day of May, A. D., 1930. [127]

State of Washington,
County of Walla Walla—ss.

I, Walter Kimmerly, County Clerk and ex-officio Clerk of the Superior Court of the State of Washington, for Walla Walla County, do hereby certify that John L. Sharpstein, whose name is subscribed to the preceding certificate, is Judge of the Superior Court of the State of Washington, for Walla Walla County, duly elected, sworn and qualified, and that the signature of said Judge to said certificate is genuine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Superior Court, of Walla Walla, the county seat of said County, this 21st day of May, 1930.

[Seal]

WALTER KIMMERLY,
Clerk of said Superior Court. [128]

[Endorsed]: U. S. Board of Tax Appeals. Div. 15.
Docket 22184. Admitted in Evidence Jun. 2, 1930.
Petitioner's Exhibit 4.

United States of America
State of Washington

DEPARTMENT OF STATE

[The Seal of the State of Washington, 1889]

To All to Whom These Presents Shall Come

I, J. Grant Hinkle, Secretary of State of the State of Washington and custodian of the Seal of said State, do hereby certify that I have carefully examined the records of this office and find that the "BRYSON-ROBISON CORPORATION", a domestic corporation of Walla Walla, Washington, filed a copy of its articles of incorporation in this office on the 13th day of October, 1916.

I further certify that the above mentioned corporation was stricken from the records of this office July 1, 1921, and was further "Stricken from Records and dissolved" July 1, 1924 under the provisions of Chapter 144, Laws of Washington of 1923, for failure to pay the annual license fees and accruing penalties, the last license fee paid being for the fiscal year ending June 30, 1919.

And I further certify that the above mentioned corporation has had no legal corporate existence since stricken July 1, 1921, pursuant to Chapter 140, laws of 1907.

In Testimony Whereof, I have hereunto set my hand and affixed hereto the Seal of the State of Washington. Done at the Capitol, at Olympia, this 14th day of May A. D. 1930.

[Seal]

J. GRANT HINKLE,

Secretary of State.

By A. M. HITTO,

Assistant Secretary of State. [129]

[Endorsed]: U. S. Board of Tax Appeals. Div. 15. Docket 22184. Admitted in evidence Jun. 2, 1930. Petitioner's Exhibit 5.

(Received Aug. 12, 1924. Special Assessment Section.)

[original torn—illegible]

IT:CA

Walla Walla, Washington

January 2nd

(da

1924

INCOME AND PROFITS TAX WAIVER

In pursuance of the provisions of subdivision (d) of Section 250 of the Revenue Act of 1921, Bryson-Robinson, Corporation of Walla Walla, Washington and the Commissioner of Internal Revenue, hereby consent to a determination, assessment, and collection of the amount of income, excess-profits, or war-profits taxes due under any return made by or on behalf of the said Corporation for the years 1917 and 1918 under the Revenue Act of 1921, or under prior income, excess-profits, or war-profits tax Acts, or under Section 38 of the Act entitled "An Act to

provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes", approved August 5, 1909, irrespective of any period of limitations.

ELMER D. BRYSON

Former Secretary of the Bryson-Robison Corp.
Taxpayer

D. H. BLAIR C
Commissioner

If this waiver is executed on behalf of a corporation, it must be signed by such officer or officers of the corporation as are empowered under the laws of the State in which the corporation is located to sign for the corporation, in addition to which, the seal, if any, of the corporation must be affixed. [130]

[Endorsed]: U. S. Board of Tax Appeals. Div. 15.
Docket 22184. Admitted in evidence Jun. 2, 1930.
Petitioner's Exhibit 6.

Telephone 7

Herbert C. Bryson
Attorney at Law
312-313 Drumheller Bldg.
Walla Walla, Washington

December 26, 1923

Commissioner of Internal Revenue,
Washington, D. C.

Sir:

Re: Your IT:CA:Ms 2506-WHS-App.

Elmer D. Bryson has handed me your office letter of the 19th inst. addressed to Bryson-Robison Cor-

poration, in his care, advising that it will be necessary for this corporation within twenty days from the date of your letter to advise you of its acquiescence in the determination of net income and invested capital as found by the Revenue Agent's report dated October 22, 1923, in order that you may further consider an application for computation of tax under the provisions of Section 210, Revenue Act 1917 and Sections 327-8, Revenue Act 1918.

You have already been informed that this corporation has been entirely out of business since June 1919, and since that date has not owned or possessed any property of any character and the corporation has long since been stricken from the corporate rolls of this State where it was incorporated. It has not functioned in any manner since that date, and being stricken from the corporate rolls naturally the former officers of the corporation cannot legally presume to act for it since it no longer exists.

During the life of the corporation Elmer D. Bryson was secretary of the corporation, but will not presume to assume to act in that capacity after all of these years since its dissolution. The only way he could make a report would be that as that of an individual, who was formerly secretary of a corporation which has been defunct for a period of over four and one half years, and during which period it has neither functioned nor owned any property.
(Underscoring supplied)

Your office letter above referred to is being by him referred to Cosper Accounting Company, who has been looking after this matter and it will probably give your letter such further attention and reply as it deems proper and necessary. We deemed it proper that this status of affairs should now again be called to your attention, as no former officer will assume an authority not vested in him.

Yours very truly,

HERBERT C. BRYSON [131]

[Endorsed]: U. S. Board of Tax Appeals. Div. 16.
Docket 22184. Admitted in evidence Jun. 2, 1930.
Petitioner's Exhibit 7.

Form 850-A

Revised July, 1824

TREASURY DEPARTMENT

Internal Revenue Service

[Insignia]

Office of

Supervising Internal Revenue Agent

Seattle, Wash.

807 4th Ave.

Oct. 24, 1924

Elmer D. Bryson

605 Boyer Ave.

Walla Walla, Wash.

In re: Income Tax

Date of Report: Oct. 24, 1924

Years examined: 1919, 1920 and 1921

Dear Sir:

There is transmitted herewith copy of a report covering examination recently made by a repre-

sentative of this office covering your income tax liability, and a form of agreement which, if the adjustments suggested are satisfactory to you, you may sign and return to this office. The agreement, however, until approved by the Commissioner, upon a review of the examining officer's report in Washington, is not binding. In the event the report is not approved upon review in Washington and there are material changes, you will be given the benefit of due notice and afforded an opportunity to discuss the changes with this office.

If you do not agree with the conclusions stated in the report, it is desired that every opportunity be afforded you to present any objections or additional information which you believe might affect the result of the final decision of the Commissioner of Internal Revenue at Washington, D. C. The original of this report will, therefore, be held in this office for a period not to exceed twenty days from the date of this letter in order that you may, if you so desire, present any protests, briefs, or letters containing additional information. Such protests, briefs, or letters should be forwarded in triplicate to this office, where they will receive careful consideration before the report with all papers pertaining thereto is transmitted to the Department at Washington for final action. If you agree to the findings of the examining officer the report will be forwarded at once. In the event that you do not submit protest or brief within the twenty-day period, the report will immediately thereafter be forwarded to the Bureau. However, any appeal, protest or additional information affecting the inclosed report should be directed to this office, and not to the Bureau at

Washington. If forwarded to the Bureau direct, it will be referred to this office for appropriate consideration.

No remittance should be made until you receive notice of assessment from the Collector of Internal Revenue for your district.

Please acknowledge receipt by return mail.

Respectfully,

F. H. GOUDY

Supervising Internal Revenue Agent.

By W. A. HOLT

Internal Revenue Agent [132]

TREASURY DEPARTMENT

Internal Revenue Service

[Insignia]

Office of

807 4th Ave.

Internal Revenue Agent

Portland Division

October 24, 1924

No. 7518-W

IT:R:FR

In re: Elmer D. Bryson

605 Boyer Ave.

Walla Walla, Washington

Recommended

Deficiency in Tax Overassessment

1919 No change

1920 \$7.45

1921 No change

Total \$7.45

Commissioner of Internal
Revenue

IT:R For Attention
Head Personal Audit

Enclosed herewith is a report of Internal Revenue Agent Frank Johnson dated July 18, 1924 covering his investigation of the above named individual for the years 1919 to 1921, inclusive indicating a net overassessment of \$7.45, which I recommend be credited or refunded.

The examining officer was instructed to make this investigation in view of your letter of May 7, 1924 IT:R:UR:10-BBC stating the records of your office fail to show the taxpayer filed returns for 1919 and subsequent years.

Returns were filed in the District of Washington on form 1040 for 1919 and 1921 and on form 1040A for the year 1920.

A copy of this report has been mailed to the taxpayer with a request that the receipt of same be acknowledged. A copy of office letter to taxpayer is enclosed.

F. H. GOUDY

Supervising Internal Revenue Agent

By

AFS:KP

Internal Revenue Agent [133]

Treasury Department,
Internal Revenue Service.
Form 845k.
Aug., 1921.
Name ELMER D. BRYSON

SCHEDULE 1

Joint Return—form 1040 Year 1919

BLOCK ADJUSTMENTS

Block	Return	Additions	Reductions	Corrected	Wife's Income
A	\$ 1,516.08	\$14,993.03	\$	\$16,509.11	\$.....
B					
C					
D			18,187.13	(18,187.13)	.....
E					
F					
G					
Total					
H	1,516.08	14,993.03	18,187.13	(1,678.02)	.....
I	20.00			20.00	.....
Total					
J	1,496.08			(1,698.02)	.....
K(a)	247.50	4,857.38		5,104.88	.....
(b)		27.14		27.14	.....
L					
M					
N					
Total	1,743.58	19,877.55	18,187.13	3,434.00	.....
Wife's net income or loss					
Husband's net income xxxxx 3,434.00					

Elmer D. Bryson

SCHED. 1-A

Explanation of Items—Changed

Detail of Income and Expenditures for the year 1919, as shown by Agent's supplemental report covering the Bryson-Robison Corporation. As shown in the report covering the investigation of the corporation, the net income for the entire year was apportioned between the corporation and Elmer D. Bryson for the reason that Mr. Bryson took over all of the assets of the corporation on June 4, 1919 and thereafter conducted the business as an individual, no segregation of the business between the corporation and the individual having been made at the time of change and by reason of overlapping items, and the further reason that neither the corporation or the individual kept any regular books of account, an apportionment of the net income based on the time held by each appears to be an equitable division. [135]

Elmer D. Bryson
SCHED. 1-A (cont.)

Explanation of Items—Changed

Block A.

Sale of Sheep		\$42,777.75
Sales of Wool		27,196.93
Sales of Cattle		150.00
		<hr/>
Total		\$70,124.68
Total amended Inventories 12-31-18		\$37,570.00
No Purchases recorded		
Inventories 12-31-19		
1500 Ewes at \$4.00	\$ 6,000.00	
1700 Sheep at \$8.91	15,147.00	
100 Lambs at 8.15	8,150.00	
Cattle	1,925.00	
	<hr/>	
Total closing inventories		31,222.00
		<hr/>
Difference		6,348.00
		<hr/>
Gross Income from sales		63,776.68
Miscl. Income sale of hides		100.00
		<hr/>
Gross Income		\$63,876.68

Elmer D. Bryson

SCHED. 1-A (cont.)

Explanation of Items—Changed

Block A. (cont.)

Gross Income forward		\$63,876.68
Deductions:		
Labor	\$9,271.02	
Supplies & Provisions	2,664.49	
Rent of Pasture	1,559.92	
Gas, Oil & auto Exp.	1,876.49	
Sacks	160.56	
Feed Purchased	9,869.27	
Water	659.07	
Misc. Expense	183.05	
	<hr/>	
12. Total necessary expense	26,243.87	
14. Misc. Repairs	872.61	
15. Interest	1,674.83	
16. Taxes	2,218.18	
18. Depreciation	2,028.42	
	<hr/>	
20. Total deductions		33,037.91
		<hr/>
7. Net income for taxable period		\$30,838.77
Above income apportioned as follows:		
54/365 Attributed to earnings of corporation	\$13,271.57	
11/365 Attributed to earnings of Elmer D. Bryson	17,567.20	
	<hr/>	
Total	\$30,838.77	
Earnings of Elmer D. Bryson with corporation		\$17,567.20
Additional deductions not on corporation books		
State and County Taxes	\$278.18	
Insurance & Interest	46.44	
Expense of Auto in business	143.47	
Depreciation Ex. F'	590.00	
	<hr/>	
Total net income		16,509.11

Elmer D. Bryson
SCHED. 1-A (cont.)

Explanation of Items—Changed

Block D. Nothing is shown in this block in the return filed, the taxpayer sustained a loss in taking over the assets of the corporation as a liquidating dividend, as defined under Article 1548 and 1564 Reg. 45 as amended.

Assets received by Elmer D. Bryson in lieu of Stock held in the Bryson-Robison Corporation.

Sheep Amended Inventory	\$29,297.00
Rams	4,701.39
Real Estate	56,575.15
Farm Bldgs.	5,801.09
Cattle	1,925.00
Pack outfits	8,146.00
Pack horses	415.00

Total	106,860.63
Less Depreciation Reserve	4,426.23

Value of Assets as shown by books of Corp.	\$102,434.40
Assets originally paid in	\$50,621.53
Paid Lester L. Robison	70,000.00
Net loss	\$18,187.13

In the above adjustment the corporation's book value is deemed the fair value as at dissolution.

[138]

Block I. Contributions

Y. M. C. A.	\$ 5.00
Red Cross	15.00

Total	\$20.00
-------	---------

Block K-a Dividends were increased by 4,857.38 representing additional earnings of the Bryson Robison corporation to June 4, 1919.

Representing the balance of corporation surplus account after deducting accrued income tax liability as shown by final closing of constructed books for the corporation

Total dividend	\$5,104.88
----------------	------------

Block K-b Interest received on Victory Bond 27.14

[139]

Treasury Department,
Internal Revenue Service.

Form 845.

Aug., 1921

Name ELMER D. BRYSON

SCHEDULE 2

Year ended 12-31-19

NET INCOME

Net income as disclosed by return.....	\$ 1,743.58
As corrected	3,434.00
Net additions	1,690.42

Additions:

(a) Sales of sheep & wool	\$14,993.03
() Dividends increased	4,857.38
() Int. on Victory Bond	27.14
()	
()	
()	
()	

Total additions.....	\$19,877.55
----------------------	-------------

Deductions:

() Net Loss Stock of Corporation.....	\$18,187.13
()	
()	
()	
()	

Total deductions.....	\$18,187.13
-----------------------	-------------

Net additions as above.....	1,690.42
-----------------------------	----------

[140]

Treasury Department,
Internal Revenue Service.

Form 845 m.

Aug., 1921.

Name ELMER D. BRYSON

SCHEDULE 3
COMPUTATION OF TAX

	Year ended 12-31-19
Total net income, Schedule 2	3,434.00
2 dependents\$ 400.00	
specific 2000.00	
Less: Exemption	2400.00
Dividends	5104.88
Interest on U. S. obligations, etc....	27.14 7,532.02
Income subject to Normal Tax.....	none
Tax% on.....	
Tax% on.....	
Tax% on.....	
Tax% on.....	
Surtax husband's income	
Surtax wife's income	
Surtax at prior years' rates	
Excess Profits Tax, Section 201.....	
Excess Profits Tax, Section 209.....	
Total Tax	
Less tax withheld at source (for 1917 not to exceed Normal Tax)	
Taxes, Section 222, 1918 Act	
Total Tax Assessable.....	none
Tax previously assessed	"
Additional tax to be assessed (overassessment)	"

[141]

Treasury Department,
Internal Revenue Service.
Form 845k.
Aug., 1921.

Name ELMER D. BRYSON and CHARLOTTE BRYSON, his wife

SCHEDULE 4

Joint Return Form 1040 A

Year 1920

BLOCK ADJUSTMENTS

Block	Return	Additions	Reductions	Corrected	Wife's Income
A	\$ 3,215.55	\$	\$ 7,308.61	\$(4,093.06)	\$.....
B					
C					
D	(700.00)	420.00		(280.00)	.....
E	80.00			80.00	.....
F					
G					
Total					
H	2,595.53	420.02	7,308.61	(4,293.06)	.....
I					
J					
K(a)	9.00			9.00	.....
K(b)					
L					
M					
N		20			.....
Total	2,586.33	420.22	7,308.61	(4,302.06)	.....

Wife's net income or loss.....

Husband's net income or loss..... (4,302.06)

Elmer D. Bryson

SCHED. 4-A (cont.)

Explanation of Items—Unchanged

Copy of Return filed Form 1040 A Year 1920

Sched. A.	Live Stock sold			\$25,850.95
	Wool sold			25,552.53
	Pelts and sacks			385.60
				<hr/>
	Total			\$51,789.08
	Cost of Rams sold	\$3,225.00		
	Received	500.00		
			<hr/>	
	Loss			2,725.00
				<hr/>
	Gross Income			49,064.08
	Expenses			
	Labor	12,954.74		
	Groceries	5,196.47		
	Feed	14,591.79		
	Water & Freight	1,378.96		
	Land rental	917.07		
	Repairs	1,675.89		
	Gas and Oil	708.06		
	Insurance & taxes	3,244.04		
	Interest	4,631.01		
	Abstracts & Com.	506.50		
	Telephone	25.00		
	Tolls & ferrying	19.00		45,848.53
			<hr/>	<hr/>
	Net Income			3,215.55
Sched. D.	Sale of Real Est. of J. K. Fuller	\$3,500.00		
	Acquired 1914 cost	\$4500.00		
	Deprn.	300.00	4,200.00 loss (700.00)	
		<hr/>	<hr/>	
Sched. E.	Rent Henry Blackman			80.00
				<hr/>
Sched. H.	Total net income			2,595.53*
	Red Cross	4.00		
Sched. K.	Contributions Y.W.C.A.	5.00		9.00
		<hr/>	<hr/>	
Sched. N.	Total net income			\$2,586.33**

Elmer D. Bryson
 SCHED. 4-A (cont.)

Explanation of Items—Unchanged

Computation of Tax

14. Net Income	\$2,586.33
15. Exemptions 2 Dep.	2,400.00
16. Balance taxable	<u>186.33</u>
17. Tax due at 4%	\$7.45

Interest received on Liberty Bonds \$111.25

*Error in addition 2¢. **Error in subtraction 20¢.

[143]

Elmer D. Bryson
 SCHEDULE 4-B

Explanation of Items—Changed

Sched. A.	Wool Sales		\$25,552.53
	Sheep Sales		26,357.51
	Miscl. sales		320.16
	Cattle Sales		<u>1,625.00</u>
	Total		\$53,855.20
	Cattle Inv. 1-1-20	\$ 1,925.00	
Corrected	Sheep Inv. 1-1-20	29,297.00	
	Sheep purchased	<u>2,400.00</u>	
	Total		\$33,622.00
Inv. 4150	sheep @ 5.08 12-31-20	\$21,082.00	
Inv. of	Cattle 12-31-20	<u>300.00</u>	
	Total		<u>21,382.00</u>
	Difference		12,240.00
	Total		<u>\$41,615.20</u>
	Sale of Rams	\$ 500.00	
	Cost per Corp. Books	\$4,701.39	
	Less Deprn.	<u>1,462.84</u>	
	Balance	3,238.55	
	Rams purchased	<u>2,215.00</u>	
	Total	5,453.55	
	Inv. at close 12-31-20		
68 head	@ \$45	<u>3,060.00</u>	<u>2,393.55</u>
	Net Loss		(1,893.55)
	Gross Income		<u>39,721.65</u>

Elmer D. Bryson
SCHEDULE 4-B (cont.)

Explanation of Items—Changed

Deductions:

Labor	\$15,695.16
Board of Labor & Provisions	6,856.72
Int. accrued	1,520.00
Int. and Insurance	2,948.75
Feed	7,594.33
Taxes	1,953.53
Rent	1,180.57
Commission	500.00
Miscl. Repairs	854.21
Auto Expense	2,422.41
Water & Freight	420.25
Incidentals	137.40
Sacks	146.21
Deprn.	1,585.17

Total deductions

43,814.71

Net loss

(4,093.06)

[144]

Sched. D. Net Loss decreased by \$420.00 as follows:

Sale of house & lot to J. K. Fuller	\$3500.00
Acquired 1914 cost	\$4500.00
Deprn. sustained	720.00
Net loss	3780.00

(\$280.00)

Sched. E.

Rent received from Henry Blackman

\$ 80.00

Sched. K. Contributions

Red Cross	\$4.00
Y.W.C.A.	5.00

Total

\$ 9.00

[145]

Treasury Department,
Internal Revenue Service.

Form 845.

Aug., 1921

Name ELMER D. BRYSON

SCHEDULE 5

Year ended 12-31-20

NET INCOME

Net income as disclosed by return.....	\$ 2,586.33
As corrected..... Net loss.....	(4,302.06)
Net (additions—deductions)	6,888.39

Additions:

(a) Loss sale of house disallowed.....	\$ 420.00
() Error in Addn. Sched. H .....	.02
() Error in Subtraction Sched. N.....	.20
()	
()	
()	
()	
()	
Total additions.....	\$ 420.22

Deductions:

() Sched. A revised	\$ 7,308.61
()	
()	
()	
()	
()	
Total deductions.....	\$ 7,308.61
Net deductions as above.....	6,888.39

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Treasury Department,
Internal Revenue Service.

Form 845 m.

Aug., 1921.

Name ELMER D. BRYSON & WIFE

SCHEDULE 6

COMPUTATION OF TAX

Year—Period ended 12-31-20

Total net income, Schedule 5.....net loss..... (4,302.06)

Less: Exemption

Dividends

Interest on U. S. obligations, etc.

Income subject to Normal Tax..... none

Tax% on.....

Tax% on.....

Tax% on.....

Tax% on.....

Surtax husband's income

Surtax wife's income

Surtax at prior years' rates

Excess Profits Tax, Section 201.....

Excess Profits Tax, Section 209.....

Total Tax

Less tax withheld at source (for 1917 not to
exceed Normal Tax)

Taxes, Section 222, 1918 Act

Total Tax Assessable..... none

Tax previously assessed 7.45

(Overassessment) 7.45

[147]

Treasury Department,
Internal Revenue Service.
Form 845k.
Aug., 1921.
Name ELMER D. BRYSON

SCHEDULE 7

Joint Return form 1040 Year 1921

BLOCK ADJUSTMENTS

Block	Return	Additions	Reductions	Corrected	Wife's Income
2A	\$	\$	\$ 300.00	\$ 300.00	\$.....
5B	(5,444.50)	7,601.19		(13,045.69)	.....
7C		228.75		(228.75)	.....
D					
E					
F					
Total					
11G	(5,444.50)	7,829.94	300.00	(12,974.44)	.....
H					
I					
16J		382.19		382.19	.....
K(a)					
K(b)					
L					
M					
N					
Total	(5,444.50)	8,212.13	300.00	13,356.63	.....

Wife's net income or loss
Husband's net income or loss..... 13,356.63

Elmer D. Bryson

SCHED. 7-A

Explanation of Items—Changed

Item 2.	Int. Received 3d National Bank	\$ 300.00
	Sheep Sales	15,348.94
Item 5.	Wool Sales	5,762.16
	Cottonseed cake sold	608.45

Total sales

21,719.55

Cattle Inv. 1-1-21	\$ 300.00
Sheep Inv. 1-1-21	21,082.00
Rams Inv. 1-1-21	3,060.00
Rams purchased	300.00

Total

\$24,742.00

Inventories 12-31-21

4150 sheep @ 4.78	19,837.00
55 Rams at \$45	2,475.00
Cattle	600.00

Total

22,912.00

Difference

1,830.00

Gross Income

19,889.55

Deductions:

Labor	10,344.00
Supplies & Provisions	2,911.73
Feed purchased	4,555.29
Rent	1,698.27
Accrued Int.	1,641.00
Int. paid	2,820.17
Insurance	77.75
State & County Taxes	3,469.88
Auto Exp. & Traveling	2,619.62
Hardware & Repairs	401.06
Water and Misl.	637.50
Depreciation Ex. F.	1,758.97

Total deductions

32,935.24

Net Loss

\$13,045.69

Elmer D. Bryson
 SCHED. 7-A (cont.)

Explanation of Items—Changed and Unchanged

Item 7. Sale of Liberty Bonds & War Savings Stamps			
	Sale of Liberty Bonds	\$2,363.25	
	Cost of bonds	2,600.00	
		<hr/>	
	Net loss		\$ 236.75
	War Savings Stamps	\$ 908.00	
	Cost of Stamps	900.00	
		<hr/>	
	Net gain		8.00
			<hr/>
	Net loss Bonds & Stamps		\$ 228.75
Item. 16. Loss sustained as endorser on note for			
	E. L. Davis		\$ 382.19
			[150]

Treasury Department,
Internal Revenue Service.

Form 845.

Aug., 1921

Name ELMER D. BRYSON

SCHEDULE 8

Year ended 12-31-21

NET INCOME

Net income as disclosed by return	Net Loss.....	\$(5,444.50)
As corrected	Net Loss.....	(13,356.63)
Net additions		7,912.13

Additions:

(a)	Adjustment on an Inv. loss.....	\$ 7,601.19
()	Loss Liberty Bonds & W. S. S.	228.75
()	Endorser on note	382.19
()	
()	
()	
()	
	Total additions.....	\$ 8,212.13

Deductions:

()	Int. from 3d Natl. Bank.....	\$ 300.00
()	
()	
()	
()	
	Total deductions.....	\$ 300.00

Net additions as above.....	7,912.13
-----------------------------	----------

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Elmer D. Bryson

SCHED. 8-A

Explanation of Items—Changed

Statutory net loss Article 1601 Reg. 62

Net Loss Sched. 8		\$13,356.63
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Loss taken on note		
--------------------	--	--

Not in business	\$382.19	
-----------------	----------	--

Liberty Bond Int.	68.37	450.56
-------------------	-------	--------

Statutory net loss		(12,906.07)
--------------------	--	-------------

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Treasury Department,
Internal Revenue Service.

Form 846.

Aug., 1921.

Name ELMER D. BRYSON & WIFE

EXHIBIT A

Jan. 1, 1920

BALANCE SHEET

Assets	Books	Additions	Reductions	Amended
Liberty Bonds	\$ 2,600.00	\$	\$	\$ 2,600.00
War Sav. Stamps	900.00			900.00
(a) Real Estate	51,365.25	5,209.90		56,575.15
Home	5,000.00			5,000.00
Rams cost	4,701.39			4,701.39
Cattle Inv.	1,925.00			1,925.00
(b) Sheep Inv.	28,720.00	577.00		29,297.00
Pack horses	415.00			415.00
Machinery	300.00			300.00
Pack outfit	8,146.00			8,146.00
Farm Bldgs.	5,801.09			5,801.09
Auto Business	2,200.00			2,200.00
Auto personal	1,300.00			1,300.00
House & lot	4,500.00			4,500.00
Total	17,873.73	5,786.90		123,660.63
Liabilities				
Bank O. D.	487.05			487.05
Notes payable	60,500.00			60,500.00
(c) Dep. Res.	1,680.00	4,426.23	150.00	5,956.23
		5,786.90		
(d) Net Worth	55,206.68	150.00	4,426.23	56,717.35
Total	117,873.73	10,363.13	4,576.23	123,660.63

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Elmer D. Bryson

EXHIBIT A-1

Explanation of Items—Changed

- (a) Real Estate increased by \$5209.90 to agree with the corrected closing balance sheet of the Bryson Robison Corporation, all real estate being taken over by Elmer D. Bryson.
- (b) Inventories increased by \$577.00 to agree with the corrected inventory shown in the report of the corporation as follows:

Old Inventory 1919

1500 Ewes	at \$10.00	\$15,000.00
200 lambs	“ 12.50	2,500.00
700 “	“ 3.30	2,310.00
800 “	“ 4.45	3,560.00
1000 “	“ 5.35	5,350.00

Total	\$28,720.00
-------	-------------

Revised inventory 1919 based on purchases
by the Walla Walla Meat & Cold Storage Co.

1500 ewes	@ \$4.00	\$ 6,000.00
1700 sheep	@ 8.91	15,147.00
1000 lambs	@ 8.15	8,150.00

Total	\$29,297.00
-------	-------------

- (c) Depreciation reserve increased by \$4426.23 amount of depreciation sustained on the assets taken over from the corporation and decreased by \$150.00 excessive reserve set up for gas engine.
- (d) Net worth adjusted by the above changes.

Treasury Department,
Internal Revenue Service.

Form 846.

Aug., 1921.

Name ELMER D. BRYSON & WIFE

EXHIBIT B

Dec. 31, 1920

BALANCE SHEET

Assets	Books	Additions	Reductions	Amended
Liberty Bonds	\$ 2,600.00	\$	\$	\$ 2,600.00
War Sav. Stamps	900.00			900.00
(a) Real Estate	51,685.25	5,209.90		56,895.15
Home	5,356.64			5,356.64
Rams Inv.	3,060.00			3,060.00
Cattle Inv.	300.00			300.00
(b) Sheep Inv.	28,345.00		7,263.00	21,082.00
Pack horses	477.50			477.50
Machinery	507.78			507.78
Pack outfit	8,146.00			8,146.00
Farm Bldgs.	5,801.09			5,801.09
Auto Business	2,200.00			2,200.00
Auto personal	1,300.00			1,300.00
Cabin Tollgate	100.00			100.00
<hr/>				
Total	110,779.26	5,209.90	7,263.00	108,726.16
<hr/>				
Liabilities				
Bank O. D.	85.53			85.53
Notes payable	53,400.00			53,400.00
Accrued Int.	1,520.00			1,520.00
(c) Dep. Reserve	2,564.78	2,963.39	169.61	5,358.56
		5,209.90	7,263.00	
(d) Net worth	53,208.95	169.61	2,963.39	48,362.07
<hr/>				
Total	110,779.26	8,342.90	10,396.00	108,726.16

Elmer D. Bryson

EXHIBIT B-1

Explanation of Items—Changed

- (a) Real Estate increased by \$5209.90, as explained for prior year.
- (b) Inventory of sheep decreased by \$7263, based on purchases by the Walla Walla Meat and Cold Storage Co. on the same basis as prior years inventories of the corporation.

Inventory shown in the con-

structed books \$28,345.00

Corrected 4150 head at \$5.08 21,082.00

Decrease

\$ 7,263.00

- (c) Depreciation reserve increased by \$2963.39 as follows:

Addition to depreciation Res. in
the year 1919

\$4,426.23

Less depreciation on Rams sold

1,462.84

Difference

2,963.39

Depreciation reserve decreased by
\$169.00 as follows:

Decreased in the year 1919

\$ 150.00

Depreciation disallowed 1920

19.61

Total

\$ 169.61

- (d) Net worth adjusted by the above changes.

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Treasury Department,
Internal Revenue Service.

Form 846.

Aug., 1921.

Name ELMER D. BRYSON & WIFE

EXHIBIT C

Dec. 31, 1921

BALANCE SHEET

Assets	Books	Additions	Reductions	Amended
		76.00		
(a) Real Estate	\$51,685.25	\$ 5,209.90	\$	\$56,971.15
Home	5,356.64			5,356.64
Rams Inv.	2,475.00			2,475.00
Cattle Inv.	600.00			600.00
(b) Sheep Inv.	28,345.00		8,508.00	19,837.00
Pack horses	477.50			477.50
Machinery	1,037.78			1,037.78
Pack outfit	8,146.00			8,146.00
Farm Bldgs.	8,820.98			8,820.98
Auto Business	2,200.00			2,200.00
Auto personal	1,300.00			1,300.00
Cabin Tollgate	100.00			100.00
Total	110,544.15	5,285.90	8,508.00	107,322.05
Liabilities				
Bank O. D.	150.00			150.00
Notes payable	63,214.77			63,214.77
Accrued Int.	3,161.00			3,161.00
(c) Dep. Reserve	4,327.25	2,963.39	173.11	7,117.53
		5,285.90	8,508.00	
(d) Net worth	39,691.13	173.11	2,963.39	33,678.75
Total	110,544.15	8,422.40	11,644.50	107,322.05

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Elmer D. Bryson

EXHIBIT C-1

Explanation of Items—Changed

(a) Real Estate was increased by \$5209.90 as shown for prior year and 76.00 cost of abstract disallowed as expense.

(b) Inventory of sheep decreased by \$8508.00 based on purchases by the Walla Walla Meat and Cold Storage Co., on the same basis as prior years inventories.

Inventory shown in the constructed books

\$23,345.00

Corrected, 4150 head at \$4.78

19,837.00

Difference

\$ 8,508.00

(c) Depreciation reserve increased by \$2963.39 as shown for prior year, and decreased by \$173.11 as follows:

Decrease in the year 1920

\$ 169.61

Depreciation disallowed 1921

3.50

Total

\$ 173.11

(d) Net worth adjusted by the above changes.

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Treasury Department
Internal Revenue Service

Form 846A

Aug., 1921

Name ELMER D. BRYSON & WIFE

EXHIBIT D

Analysis of Depreciation Reserve

Date	Item	Debit	Credit	Balance
Jan. 1, 1920	constructed books on assets of corpora- tion taken over not shown on individual books		1,680.00 4,426.23	
	Reserve decreased on Gas Engine	150.00		
Jan. 1, 1920	Corrected Balance			5,956.23
12-31-20	Depreciation allowed Depreciation on Rams sold		1,585.17 1,462.84	
	Depreciation on House sold	720.00		
12-31-20	Corrected balance			5,358.56
12-31-21	Depreciation allowed		1,758.97	7,117.53
				[159]

Treasury Department
 Internal Revenue Service
 Form 846A
 Aug., 1921

Name ELMER D. BRYSON

EXHIBIT E
 Analysis of Net Worth

Date	Item	Debit	Credit	Balance
Jan. 1, 1920	Constructed books		55,206.68	
	Addition to Inventories		577.00	
	Addition to Real Est.		5,209.90	
	Depreciation Reserve decreased on Gas Engine		150.00	
	Depreciation on assets taken over from Corp.	4,426.23		
Jan. 1, 1920	Corrected Balance			56,717.35
12-31-20	Net Loss	4,302.06		
	Liberty Bond Int. Non-Taxable		115.37	
	Personal withdrawals	3,739.38		
	Income Tax a/c Corp.	368.21		
	Gifts	61.00		48,362.07
12-31-21	Net Loss	13,356.63		
	Personal withdrawals	1,387.61		
	Income Tax	7.45		
	Liberty bond Int.		68.37	33,678.75
				[160]

Elmer D. Bryson & Wife

EXHIBIT F

Depreciation

Explanation of Items—Changed

Sheep Sheds &

Farm Bldgs. Rate 4%

Year	Balance	Res. credited	Cost Accumulated Deprn.	1919	Amount Allowed 1920	1921
1920	5801.09	232.04	5801.09	507.29	232.04	232.04
1921	8820.98	352.84	3019.89			120.80
Total	8820.98	584.88	8820.98	507.29	232.04	352.84
	Depreciation Taken				232.04	352.84

Increase (Decrease)

None None

Pack Outfits Rate 10%

1920	8146.00	814.60	8146.00	2414.60	814.60	814.60
1921	8146.00	814.60				
Total	8146.00	1628.20	8146.00	2414.60	814.60	814.60
	Depreciation Taken				814.60	814.60

Increase (Decrease)

None None

Pack Horses Rate 10%

1920	477.50	47.75	477.50	41.50	47.75	47.75
1921	477.50	47.75				
Total	477.50	95.50	477.50	41.50	47.75	47.75
	Depreciation Taken				47.75	47.75

Increase (Decrease)

None None

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Elmer D. Bryson & Wife

EXHIBIT F (cont.)

Depreciation

Explanation of Items—Changed

Year	Balance	Res. credited	Cost	Accumulated Deprn.	1919	Amount Allowed 1920	1921
Machinery Rate 10%							
1919	\$ 300.	\$ 60.	\$ 300.	\$120.	\$ 30.	\$ 30.	\$30.
1920	507.78	70.39	207.78			20.78	20.78
1921	1037.78	107.28	530.00				53.00
Total	1037.78	237.67	1037.78	120.	30.	50.78	103.78
Depreciation Taken					60.	70.39	107.28
Increase (Decrease)					\$ 30.	\$ 19.61	3.50
Automobile Rate 20%							
				6 mos.			
1919	2200.00	440.00	2200.00	220.00	440.00	440.00	440.00
1920	2200.00	440.00					
1921	2200.00	440.00					
Total	2200.00	1320.00	2200.00	220.00	440.00	440.00	440.00
Depreciation Taken					440.00	440.00	440.00
Increase (Decrease)					None	None	None
Dwelling House Rented Rate 4%							
1914 to 1919							
	3000.00	120.00	3000.00	600.00	120.00	Sold	

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Summary			
	1919	1920	1921
Sheep Sheds & Farm Bldgs.		232.04	352.84
Pack Outfits		814.60	814.60
Pack Horses		47.75	47.75
Machinery	30.00	50.78	103.78
Automobile	440.00	440.00	440.00
Dwelling rented	120.00		
Total	590.00	1,585.17	1,758.97
Depreciation taken	620.00	1,604.78	1,762.47
Increase (Decrease)	(30.00)	(19.61)	(3.50)

[163]

FORM FOR ACKNOWLEDGMENT OF
RECEIPT OF REPORT

Instructions:

Do not sign this form unless you are satisfied with the findings of the examining officer. Any protest or objections to his findings should be mailed to INTERNAL REVENUE AGENT IN CHARGE, 807 Fourth Avenue, Seattle, Washington, in triplicate, within 20 days from the date of the letter transmitting copy of report.

If, however, you are in agreement with the findings as stated in the report, please date and sign this form and return same in the enclosed self-addressed envelope at once in order that your case for the period indicated may be closed without delay. The carbon copy may be retained in your files.
No. 7518-W

Place: Walla Walla, Wash.

Date:

To Internal Revenue Agent in Charge,
807 Fourth Avenue,
Seattle, Washington

Receipt is acknowledged of a copy of a report dated Oct. 24, 1924 covering investigation of the Income Tax liability of the undersigned, by Internal Revenue Agent Frank Johnson for the Cal years 1919, 1920 and 1921 a net overassessment of \$7.45.

The undersigned agrees to the findings of the examining officer, and requests that the original of said report be forwarded at once to the Com-

missioner of Internal Revenue, Washington, D. C. for final action.

The undersigned further waives any right of appeal which may be granted under either the Revenue Act of 1921 or the Revenue Act of 1924, and hereby requests the Commissioner of Internal Revenue, Washington, D. C. to immediately close the case for the period stated upon the basis of the said report.

It is understood, however, that the findings of said report are subject to the approval of the Commissioner and that the undersigned is to be notified, before final action, of any material adjustment in said findings.

(Sign here) ELMER D. BRYSON
(Address)

Note: Give full postoffice address.

If executed by a corporation, the full official title of the officer signing for the corporation should be given. [164]

[Title of Court and Cause.]

PRAECIPE FOR RECORD

To the Clerk of the United States Board of Tax Appeals:

You will please prepare, transmit and deliver to the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, copies duly certified as correct of the following documents and records in the above entitled cause in connection with the petition for review by the said Circuit Court of Appeals for the Ninth Circuit, heretofore filed by the Commissioner of Internal Revenue:

1. Docket entires of the proceedings before the Board.
2. Pleadings before the Board,
 - (a) Petition, including annexed copy of deficiency letter.
 - (b) Answer.
 - (c) Amendment to answer.
3. Findings of fact, opinions and decisions of the Board, including:
 - (a) Findings and opinion promulgated February 26, 1931.
 - (b) Decision entered February 26, 1931.—
Not of record.
 - (c) Memorandum opinion and Order entered March 28, 1931.
 - (d) Memorandum opinion entered July 20, 1932.
 - (e) Order entered September 22, 1932.
 - (f) Decision entered January 26, 1933.

4. Petition for review, together with proof of service of notice of filing petition for review and of service of a copy of petition for review.

5. Statement of the evidence, as settled and allowed, together with [165] all Exhibits.

6. Orders enlarging time for the preparation of the evidence and for the transmission and delivery of the record.—Not included in record.

7. This praecipe.

(Signed) C. M. CHAREST,

General Counsel,

Bureau of Internal Revenue.

Service of a copy of the within praecipe is hereby admitted this 26 day of June, A. D. 1933.

(Signed) HERBERT C. BRYSON

Attorney for Respondent.

[Endorsed]: United States Board of Tax Appeals.
Filed Jun. 30, 1933. [166]

[Title of Court and Cause.]

CERTIFICATE

I, B. D. Gamble, clerk of the U. S. Board of Tax Appeals, do hereby certify that the foregoing pages, 1 to 166, inclusive, contain and are a true copy of the transcript of record, papers, and proceedings on file and of record in my office as called for by the Praeceptum in the appeal as above numbered and entitled.

In testimony whereof, I hereunto set my hand and affix the seal of the United States Board of Tax Appeals, at Washington, in the District of Columbia, this 8th day of June, 1934.

[Seal]

B. D. GAMBLE

Clerk,

United States Board of Tax Appeals.

[Endorsed]: No. 7519. United States Circuit Court of Appeals for the Ninth Circuit. Guy T. Helvering, as Commissioner of Internal Revenue, Petitioner, vs. Elmer D. Bryson, Respondent. Transcript of the Record. Upon Petition to Review an Order of the United States Board of Tax Appeals.

Filed June 15, 1934.

PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

No. 7519

United States
Circuit Court of Appeals
For the Ninth Circuit.

ELMER D. BRYSON,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Transcript of the Record

Upon Petition to Review an Order of the
United States Board of Tax Appeals.

United States Board of Tax Appeals.

Docket No. 22,255

DAVID BURNET, Commissioner of Internal
Revenue,

Petitioner,

vs.

ELMER D. BRYSON,

Respondent.

PRAECIPE FOR RECORD.

To the Clerk of the United States Board of Tax
Appeals:

You will please prepare, transmit and deliver to the Clerk of the United States Circuit Court for the Ninth Circuit, copies duly certified as correct of the following documents and records in the above entitled cause in connection with the cross-appeal and petition for review by the said Circuit Court of appeals for the Ninth Circuit, heretofore filed by respondent:

1. All of the record called for by petitioner's praecipe for record.
2. The motion and affidavits in support thereof in behalf of the respondent dated May 8, 1933 and filed in due course of mail thereafter.
3. Respondent's notice of filing petition for review and cross appeal.

4. Respondent's petition for cross appeal, review and assignments of error.

5. This praecipe.

HERBERT C. BRYSON,

Attorney for respondent.

312-3 Drumheller Building,
Walla Walla, Washington.

State of Washington

Walla Walla County—ss.

I, Herbert C. Bryson, sworn, on oath depose and say: I am respondent's counsel, and reside at Walla Walla, Washington; I have this day deposited in the U. S. Post office at Walla Walla, properly stamped, and addressed to General Counsel of the petitioner, Washington, D. C. a true and exact copy of the foregoing praecipe for record in the above entitled cause.

HERBERT C. BRYSON.

Sworn to and subscribed before me June 26, 1933.

J. G. THOMAS

Notary Public for Washington,

(L.S.)

residing at Walla Walla. [1*]

[Endorsed] United States Board of Tax Appeals.
Filed Jun 28, 1933.

[Title of Court and Cause.]

MOTION

Now comes the petitioner, by Herbert C. Bryson, his attorney, and respectfully moves the Board to

*Page numbering appearing at the foot of page of original certified Transcript of Record.

vacate the entry of the final order which was entered here in January 26, 1933, or in the alternative to vacate and re-enter said final order as of April 3, 1933, in order that the right of review of the portion of the final order herein adverse to this petitioner be properly protected. This motion is based upon the records and files in this case before the Board, and affidavits annexed hereto, and the acts of Congress requiring that notice and opportunity to be heard shall be accorded the taxpayer and the commissioner as to all matters and things before the Board. The records of this board and the affidavits annexed must clearly establish that notice of the Board's decision of January 26, 1933, was never afforded petitioner, nor was he apprised thereof, until April 25, 1933, thus depriving the petitioner of inherent and valuable rights without due process of law or any notice or opportunity to be heard.

HERBERT C. BRYSON,

Attorney for Petitioner.

[Endorsed]: United States Board of Tax Appeals.
Filed May 13, 1933. [2]

[Title of Court and Cause.]

AFFIDAVIT

State of Washington

County of Walla Walla—ss.

I, the undersigned, being first duly sworn on oath, depose and say:

That I am registry clerk at the United States post office at Walla Walla, Washington, and in my official capacity as such registry clerk have access to the registry records and files of the post office of Walla Walla, Washington; I have this day been requested to check up the records of this office as to the delivery of a registered letter from the United States Board of Tax Appeals, the request being made by Mr. Herbert C. Bryson, of this city, the registered letter presumably being addressed to said Herbert C. Bryson; our official records disclose that on January 30, 1933, a registered letter, No. 504728, addressed to John F. Watson, Esq., and Herbert C. Bryson, Esq., Walla Walla, Washington, was received by this post office, delivered to and receipted for by Magna Gustafson, stenographer and secretary for Mr. John F. Watson's law firm. This office has no record of delivery to Mr. Herbert C. Bryson whatever.

[Seal]

L. L. ROSEBORO

Subscribed and sworn to before me May 8, 1933.

HERBERT C. BRYSON

Notary Public for Washington. [3]

[Title of Court and Cause.]

AFFIDAVIT

State of Washington

County of Walla Walla—ss.

John F. Watson, being first duly sworn, on oath, deposes and says:

That the above entitled cause was consolidated for trial and the purposes of taking evidence June 2, 1930, with that certain other appeal wherein Lester L. Robison is petitioner, BTA Docket No. 22184. Except for convenience in taking the evidence, the cases were not further consolidated, affiant, as attorney of record for said Robison separately briefing and presenting to the board the case of said Robison wholly independent of petitioner Bryson; petitioner Bryson appeared by Herbert C. Bryson, his attorney, who alone appeared for and represented him; at no time, in no manner, did I appear for or represent Elmer D. Bryson, petitioner, nor have I joined said petitioner's counsel in any brief, motion, application or proceeding before this board; excepting the taking of evidence the cases of the two petitioners have been handled wholly separately, briefed and presented independently of each other, and without collaboration between counsel.

This honorable board, on or about February 26, 1931, promulgated its de- [4] cision discharging petitioner Robison from liability for any of the claimed tax 22 B.T.A. 395. Since receipt of official notice of the order and decision referred to neither affiant nor petitioner Robison have had further to

do before this board with any matter pending before it in connection with claimed liability for income and profit taxes of Bryson-Robison Corporation, nor has affiant nor his client filed any document or pleading before this board since the order referred to.

That on or about January 30, 1933, affiant received, by registered mail from the United States Board of Tax Appeals its notice of final decision in the above entitled cause, dated January 26, 1933; as affiant now recalls the envelope containing said decision was addressed to "Herbert C. Bryson, Esq., and John F. Watson, Esq., Walla Walla, Washington", and the same was received at the United States Post Office at Walla Walla by my stenographer, Magna Gustafson, who delivered the same to me. I assumed that Mr. Bryson had received like copy thereof, and at no time nor at all, prior to the date hereof, have I discussed the matter with either Elmer D. Bryson, or Herbert C. Bryson, his attorney. Because of my belief that Mr. Bryson had undoubtedly received such copy, I in no manner communicated to him the information therein contained, or that a final decision had been made by this board.

JOHN F. WATSON

Subscribed and sworn to before me May 8, 1933.

[Seal]

T. P. GOSE

Notary Public for Washington,
residing at Walla Walla. [5]

[Title of Court and Cause.]

AFFIDAVIT

State of Washington

County of Walla Walla—ss.

Herbert C. Bryson, being sworn says: That he is attorney for the petitioner above named, and has acted as the sole attorney for petitioner throughout the proceedings in this case before the board.

On April 25, 1933, notice of filing petition for review, petition for review and assignments of error, for review by the U. S. Court of Appeals, Ninth Circuit, were served upon affiant at Walla Walla by Frank Johnson, resident Internal Revenue Agent. This was the first official information either the affiant or his client, the petitioner herein, had that this board had rendered final decision in this case. Immediately upon such service, affiant wired Honorable Eugene Black, board member before whom the evidence was taken, requesting copy of the final decision by air mail; without any delay whatever thereafter affiant prepared, caused to be served and filed the petitioner's notice of filing petition for review, and petition for review and assignments of error, as a cross appeal, to be reviewed by the United States Circuit Court of Appeals, Ninth Circuit. The same and all thereof are now matters of record before this court. [6]

This is the second time decisions have been made by this Board, and this affiant has not been apprised thereof until long thereafter, and affiant assumes

that the Board likely thus erroneously presumed to mail notice to affiant by jointly addressing to affiant and John F. Watson, the letters being delivered to Mr. Watson, who at no time informed affiant thereof. On July 30, 1932, affiant filed with this Board petitioner's motion for review of the decision of Mr. Black. Affiant had no information whatever, nor report from the Board, that said motion had been acted upon by the Board until November 10, 1932, when he received from the Commissioner, or the Board notice under Rule 50 that on November 30, 1932, the Board would redetermine tax liability for 1919. On that date affiant wrote the Board inquiring why this step was taken in advance of a decision on the pending motion, and then, for the first time, ascertained from Honorable Eugene Black that the motion had been passed upon adversely on August 4, 1932. I assume that the envelope transmitting the Board's decision of August 4, 1932, had very likely been addressed to both Mr. Watson and myself, was received by Mr. Watson and its contents in no manner disclosed to me, although Mr. Watson in no manner appeared as counsel in the motion for review.

I do not feel that a final disposition of a case under the situation of this one is truly and properly made by the Board by entering a final decision with the clerk, not notifying the one active attorney interested therein of the decision until that attorney accidentally finds out that a decision has been made possibly too late to protect a very vital interest of

his client by appeal which the law gives a litigant before the Board the right to avail himself of. I do not question the good faith of any one in connection with this matter, but I do say that a decision by the Board, according to the records of the Board, January 26, 1933, after disposing of objections and a motion which I alone interposed representing the petitioner in this case; I was not advised of this until April 25, 1933, when the Commissioner appealed to the Circuit Court. There certainly was no occasion to jointly [7] mail notice of the Board's final order to Mr. Watson and affiant jointly, which clearly resulted in no notice whatever to the only counsel of petitioner in this case. Affiant verily believes that the rules of the Board, and Revenue Act of June 2, 1914 creating this Board, 43 Stat. 336 (a), fully contemplate and intend that a litigant before the Board shall have notice and an opportunity to be heard and that the same requires of the Board that "notice and opportunity to be heard upon any proceeding instituted before the Board shall be given the taxpayer and the Commissioner * * *"; that such notice was not afforded the petitioner herein and/or his counsel, and the Board records, the affidavits hereto annexed, and this affidavit clearly show that petitioner was not afforded the notice contemplated by law ere a decision be treated as entered so as to set running the time of the taxpayer for appeal therefrom.

It is now respectfully requested that the Board transmit, along with the full record for review, this

and the subjoined affidavits of John F. Watson and
Postal Registry Clerk, L. L. Roseboro.

HERBERT C. BRYSON.

Sworn to and subscribed before me May 8, 1933.

[Seal]

J. W. THOMAS

Notary Public for Washington,
residing at Walla Walla. [8]

In the United States Circuit Court of Appeals,
Ninth Circuit.

B.T.A. Docket No. 22,255.

DAVID BURNET, Commissioner of Internal
Revenue,

Petitioner,

v.

ELMER D. BRYSON,

Respondent.

PETITION FOR CROSS-APPEAL, REVIEW
AND ASSIGNMENTS OF ERROR.

To the Honorable Judges of the United States
Circuit Court of Appeals for Ninth Circuit:

NOW COMES Elmer D. Bryson, respondent, by
Herbert C. Bryson, his attorney, and respectfully
shows:

I.

The petitioner above named is the duly appointed,
qualified and acting Commissioner of Internal Rev-

enue of the United States. The respondent and cross-appellant is an individual, resident of Walla Walla, Washington, within this Circuit of this honorable court. The income and profits tax returns for the years 1917, 1918, and 1919 were filed with the Collector of Internal Revenue at Tacoma, Washington, which district lies within the Ninth Judicial Circuit.

II.

The Bryson-Robison Corporation was, throughout 1917 and 1918, and until June 4, 1919, a corporation, organized under the laws of Washington, with its place of business at Walla Walla therein. The capital stock in said corporation was owned equally by respondent, Elmer D. Bryson, and Lester L. Robison. On June 4, 1919 Elmer D. Bryson, respondent, purchased of and from said corporation and Lester L. Robison and wife, all of the assets, real and personal and wherever situated, of said corporation. The properties were appropriately conveyed to respondent for a consideration of \$70,000.00, and the payment by respondent of certain outstanding obligations of the [9] corporation. Respondent did not either purchase or acquire the corporate capital stock of Robison, nor did he following June 4, 1919, conduct any business by or in the name of the corporation, on the contrary, from that date forward operated the business as an individual, sole-owner by purchase, thereof.

III.

The petitioner determined a deficiency in income and profit taxes of Bryson-Robinson Corporation for the calendar year of 1917 in the sum of \$2863.42, for the calendar year 1918, \$5741.89, and for the calendar year 1919, \$2973.54. Presuming to act under Sec. 280, Revenue Act of 1926 the petitioner sent respondent and Lester L. Robison by registered mail, a notice of deficiency and proposed assessment against each of them for \$5789.43 as constituting their individual and separate liabilities as transferees of said corporation in the aggregate total of \$11578.85 assessed against such corporation for the said years 1917, 1918 and 1919. Thereafter the respondent filed with the United States Board of Tax Appeals his petition for re-determination of the deficiencies proposed against him in the notice of deficiency, the same being docketed as BTA No. 22255; an identical petition was filed by Lester L. Robison, petitioner in said United States Board of Tax Appeals the same being BTA Docket No. 22184. The two petitions and cases were consolidated. The consolidated cases were heard by the Board of Tax Appeals June 2, 1930. On February 26, 1931, the Board promulgated its interlocutory decision, 22 BTA 395, a second interlocutory decision, unreported, March 28, 1931, a third interlocutory decision unreported, July 20, 1932, a fourth interlocutory decision August 22, 1932, also unreported, a fifth interlocutory decision, unreported on September 22, 1932, and on January 26, 1933, entered its final decision and order of redetermination wherein it ordered and

decided that the respondent was not liable for the deficiencies in the income and profit taxes due from Bryson-Robison Corporation, for the years 1917 and 1918 because his liability was barred by the statute [10] of limitations, but ordering and adjudging the respondent, Elmer D. Bryson, liable as transferee of the assets of said corporation for deficiency due from said corporation for the calendar year 1919 in the of \$2273.54 with interest thereon as provided by law.

The board, in its decision promulgated February 26, 1931, held that Lester L. Robison is not liable as a transferee, predicated decision on the fact that Robison received \$70000.00 cash derived from the assets of the corporation entirely, while respondent received, by purchase, the assets of the corporation from which he obtained the \$70000.00 paid to Robison.

Over objections and exceptions of counsel for this respondent and Lester L. Robison, at the time of the trial on June 2, 1930, the Commissioner was permitted to amend his answer so that he was permitted to seek recovery from each of the stockholders in said corporation, to-wit, Elmer D. Bryson, respondent here, and Lester L. Robison, the full amount of \$11578.85, with accrued penalty and interest, assessed against said Bryson-Robison Corporation, thus permitting, on June 2, 1930, 100 per cent increased assessment of deficiency against each of the said alleged transferees over that demanded of them November 3, 1926 within the time permitted by the revenue act of 1926.

IV.

The respondent is in accord with the decision of the Board of Tax Appeals to the extent of its decision and order that the commissioner is barred by the statute of limitations from recovery from this respondent of income and profit taxes, as a transferee of said corporation, for the years 1917 and 1918. Other than that this respondent requests review of the entire record, each and every decision and order promulgated by the Board touching upon the liability of respondent and/or Lester L. Robison as alleged transferee of said corporation for income and profit taxes claimed from said corporation for 1919. [11]

V.

On October 31, 1932, the Commissioner filed with the Board notice under Rule 50, that this proceeding would be called up for hearing before the Board November 30, 1932, for the purpose of having the Board enter its decision upon the Commissioner's proposed computation and determination of tax for 1919. Detailed objections to the proposed computation were regularly filed with the Board. On January 26, 1933, the Board denied and overruled the objections to the computation and on that date promulgated its decision finding and adjudging the respondent liable as a transferee of the assets of Bryson-Robison Corporation for deficiency due from said corporation for the year 1919 of \$2273.54 with interest as provided by law.

VI.

The record before the Board is clear and undisputed as to the following facts concerning the income and profit tax liability for 1919;

This proceeding involves alleged income and profit tax liability of the respondent solely as a transferee of Bryson-Robison Corporation, and not for any personal or other income of the respondent.

June 4, 1919, respondent acquired by purchase for \$70000.00 all of the assets of Bryson-Robison Corporation, thereafter conducting the business as an individual. The assets were conveyed to respondent by deed and bills of sale executed by the corporation and Lester L. Robison and wife.

The corporation in every manner ceased business June 4, 1919. Its gross and only income for the calendar year 1919 was regularly reported to the Collector of Internal Revenue, Tacoma, Washington, as a closing report for the part year 1919 and the computed tax of \$2.50 was paid and transmitted therewith. The gross income of the corporation was \$2750.00. [12]

The Bryson-Robison Corporation was a sheep farming corporation whose entire income was produced by the sales of wool, sheep and mutton. It had no income from these, or any other sources, except as above specified, for the portion of the calendar year to June 4, 1919, when it ceased business. The remainder of the calendar year 1919 the plant was owned, managed, conducted and operated by respondent as the individual owner thereof. His

income and profit tax report for the calendar year 1919 embraced and included therein the income and profits on the entire plant theretofore owned and operated by said corporation from June 4, 1919, for the remainder of that calendar year. It showed substantial incomes by the respondent personally, and his personal return is not here in controversy.

In 1924 the revenue agent acting for and on behalf of the petitioner audited in complete detail the business of the corporation to June 4, 1919, and the remainder of the calendar year of respondent in the operation of the plant so purchased. The detailed findings and items embraced therein is exhibit No. 7 on file with the Board. The findings, when analyzed, establish our contention as above that the corporation had no taxable income whatever to the date it ceased business, June 4, 1919. The Commissioner, in order to "pull back" into and as corporation business computed the income and profit for the plant itself for the calendar year 1919 and divided the tax liability by days using the gross entire year's income as the basis, and the sole basis, upon which he computed the income and profits tax for the corporation for the part year to June 4, 1919. The Board adopted that basis of computation, charging to the corporation $154/365$ ths of the gross income of the plant for the entire calendar year, fixing that proportion as the income of the corporation to June 4, 1919, instead of the true fact that the corporation for that year, to the date it quit business, had no income.

VII.

The nature of the controversy on this cross appeal and respondent's re- [13] quest for review gives rise to the following question:

1. Is the respondent a transferee of the assets of Bryson-Robison Corporation within the true intent and meaning of the law with reference thereto as of the date of the transactions of June 4, 1919, when he acquired the plant of said corporation, to an extent which would render him liable for all, or a ratable portion, of the income and profit tax of said corporation should any such be found due?

2. Had the petitioner the legal right to increase the proposed assessment which he proposed November 3, 1926, by 100 per cent against the respondent on June 2, 1930, the date of hearing, long after the expiration of time within which an assessment could be made?

3. If either this respondent or Lester L. Robison be liable for income and profit taxes as alleged transferees of assets of said corporation, are they not equally liable, and the right of recovery, if any, of the petitioner against each of them for an equal one half of the claimed tax?

4. Is the true basis for determining income and profit tax for 1919 of Bryson Robison Corporation the income of said corporation for the part year to the date it ceased business, June 4, 1919, or, is it taxable for income obtained by an individual purchaser of its entire plant from the operation of the plant after the corporation had, in good faith, sold,

conveyed and delivered its entire property and assets to an individual?

5. Was the settlement and adjustment proposed by the Internal Revenue Agent in 1924, exhibit 7 on file with the Board, by the refund to respondent by petitioner of the overpayment therein shown, final and conclusive upon the Commissioner as to claimed income and profit tax liability from said corporation for 1919?

VIII.

The respondent, and cross appellant, desires to obtain a review of the [14] aforementioned decision of the United States Board of Tax Appeals by this Honorable Court.

IX.

The respondent, and cross appellant, says that in the record and proceedings before the United States Board of Tax Appeals and in the decisions and order of redetermination promulgated by the Board, manifest error occurred, upon which he relies to reverse the said decision and order of redetermination so promulgated and entered by the Board, to-wit:

1. The Board erred in permitting the petitioner on June 2, 1930, to increase his proposed additional assessment of 100 per cent, by filing an amended answer at that time seeking recovery of the full amount of the alleged taxes from each of the alleged transferees of assets of Bryson-Robison Corporation, namely, the respondent, Elmer D. Bryson and Lester L. Robison.

2. The Board erred in holding Lester L. Robison on any other or different basis of liability for claimed taxes than the respondent, Elmer D. Bryson.

3. The Board erred in holding that Elmer D. Bryson, respondent, is a transferee of the assets of the Bryson-Robison Corporation, and that he was other than a purchaser thereof for full value from said corporation and Lester L. Robison and wife.

4. The Board erred in finding that the Bryson Robison Corporation owed any income or profit tax at the time it ceased business June 4, 1919.

5. The Board erred in assessing tax liability to Bryson-Robison Corporation for income and profit in no manner earned or received by it, but earned and received solely by its vendee after said corporation ceased business.

6. The Board erred in approving and redetermining tax for 1919 against said corporation on a comparative computation of the portion of year it operated instead of upon the basis of its true and actual income.

7. The Board erred in deciding and ordering that this respondent is liable as transferee of the assets of the Bryson-Robison Corporation for deficiency for the year [15] 1919 in *the of* \$2273.54, together with interest thereon as provided by law, or that he is liable in any other sum whatever.

WHEREFORE the respondent and cross appellant to the end that there be no multiplicity of suits arising from these inter-related issues, petitions that the decision of the Board of Tax Appeals be reviewed

by the United States Circuit Court of Appeals for the Ninth Circuit, as to the issues, matters and things hereinabove set forth and pleaded, that a transcript of the record be prepared in accordance with law, and with the rules of said court, and transmitted to the Clerk of said court for filing, and that appropriate action be taken to the end that the errors herein complained of may be reviewed and corrected by said court, and that the alleged errors complained of by the petitioner be found and adjudged not erroneous and affirmed.

HERBERT C. BRYSON

Attorney for Respondent.

312-13 Drumheller Bldg.

Walla Walla, Washington.

State of Washington,
County of Walla Walla.—ss.

Elmer D. Bryson, being duly sworn, says: That he is the respondent and cross appellant in the foregoing cross appeal and petition for review, and is familiar with the contents thereof; that said petition is true of his own knowledge except as to the matters therein alleged on information and belief, and as to those matters he believes it to be true.

ELMER D. BRYSON

Subscribed and sworn to before me April 28th, 1933.

[Seal]

HERBERT C. BRYSON

Notary Public for Washington

My commission expires January 3, 1937.

[Endorsed]: Filed May 4, 1933. [16]

[Title of Court and Cause.]

NOTICE OF FILING PETITION FOR
REVIEW AND CROSS APPEAL.

To: David Burnet, Commissioner of Internal Revenue, C. M. Charest, General Counsel Bureau of Internal Revenue, Washington, D. C.

You are hereby notified that the respondent above named has filed herewith with the Clerk of the United States Board of Tax Appeals, at Washington, D. C. his cross appeal and petition for review by the United States Circuit Court of Appeals for the Ninth Circuit, of the decision of the Board heretofore rendered in the above entitled case. A copy of the petition for review and cross-appeal and the assignments of error as filed is hereto attached and served upon you.

Dated April 28, 1933.

HERBERT C. BRYSON

Counsel of Record for Elmer D. Bryson,
Respondent.

Personal service of the above and foregoing notice, together with a copy of the petition for review on cross-appeal and assignments of error mentioned therein is hereby accepted and acknowledged this 2nd day of May A. D. 1933.

.....
Commissioner of Internal Revenue
(Sgd) C. M. CHAREST

General Counsel,
Bureau of Internal Revenue.

[Endorsed]: United States Board of Tax Appeals. Filed May 4, 1933. [17]

United States Board of Tax Appeals
Washington

Docket No. 22255

ELMER D. BRYSON,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CERTIFICATE.

I, B. D. Gamble, clerk of the U. S. Board of Tax Appeals, do hereby certify that the foregoing pages, 1 to 17, inclusive, contain and are a true copy of the transcript of record, papers, and proceedings on file and of record in my office as called for by the Praecipe in the appeal as above numbered and entitled.

In testimony whereof, I hereunto set my hand and affix the seal of the United States Board of Tax Appeals, at Washington, in the District of Columbia, this 8th day of June, 1934.

[Seal]

B. D. GAMBLE,

Clerk,

United States Board of Tax Appeals.

[Endorsed]: No. 7519. United States Circuit Court of Appeals for the Ninth Circuit. Elmer D. Bryson, Petitioner, vs. Commissioner of Internal Revenue, Respondent. Transcript of the Record. Upon Petition to Review an Order of the United States Board of Tax Appeals.

Filed July 2, 1934.

PAUL P. O'BRIEN,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

